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Federal Register

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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
 2. The relationship between the Federal Register and Code of Federal Regulations.
 3. The important elements of typical Federal Register documents.
 4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

- WHEN:** June 25, at 9:00 am
- WHERE:** Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC
- RESERVATIONS:** 202-523-5240

NEW ORLEANS, LA

- WHEN:** July 23, at 9:00 am
- WHERE:** Federal Building, 501 Magazine St.
Conference Room 1120,
New Orleans, LA
- RESERVATIONS:** Federal Information Center
1-800-366-2998

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Proclamation 6300 of June 3, 1991

The President

Flag Day and National Flag Week, 1991

By the President of the United States of America

A Proclamation

We call her "Old Glory," but the splendor of our flag is ever new, and the principles for which she stands are timeless. When adopted by the Continental Congress on June 14, 1777, our flag became the symbol of a Nation that was founded on the conviction "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." Throughout our Nation's history, brave and selfless Americans have labored and sacrificed to defend these ideals, and in every generation they have given renewed meaning to our flag.

Earlier in this century President Woodrow Wilson noted that the American flag "is the embodiment not of a sentiment but of a history . . ." Indeed, this is what sets the flag apart from other American symbols—no other standard has been carried into battle by generations of American heroes; no other banner recalls the extraordinary achievements of our farmers and workers; and no other emblem symbolizes to more people what America means to the world. For millions of people around the globe, the Stars and Stripes has been a symbol of freedom, strength, and opportunity—a sign of safe haven and hope for the future. For countless others, it has been a sign of help and comfort—a symbol of the traditional generosity and compassion of the American people toward the poor, the hungry, and the dispossessed.

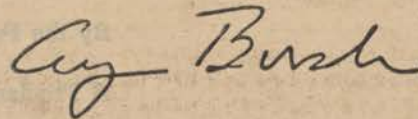
Although our annual observance of Flag Day is rich in emotion, it is not an exercise in mere sentimentalism. It is a day of proud yet meaningful reflection on our national experience and purpose—an occasion made all the more significant this year by the 200th anniversary of our Bill of Rights and by the outstanding performance of our troops in the liberation of Kuwait.

To commemorate the adoption of our flag, the Congress, by a joint resolution approved August 3, 1949 (63 Stat. 492), designated June 14 of each year as Flag Day and requested the President to issue an annual proclamation calling for its observance and for the display of the flag of the United States on all government buildings. The Congress also requested the President, by joint resolution approved June 9, 1966 (80 Stat. 194), to issue annually a proclamation designating the week in which June 14 occurs as National Flag Week and calling upon all citizens of the United States to display the flag during that week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim June 14, 1991, as Flag Day, and the week beginning June 9, 1991, as National Flag Week. I direct the appropriate officials of the government to display the flag of the United States on all government buildings during that week. I urge all Americans to observe Flag Day, June 14, and Flag Week by flying the Stars and Stripes from their homes and other suitable places.

I also urge the American people to celebrate those days from Flag Day through Independence Day, also set aside by the Congress (89 Stat. 211) as a time to honor America, by having public gatherings and activities at which they can honor their country in an appropriate manner, including publicly reciting the Pledge of Allegiance to the Flag of the United States of America.

IN WITNESS WHEREOF, I have hereunto set my hand this third day of June, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and fifteenth.



[FR Doc. 91-13450

Filed 6-3-91; 4:02 pm]

Billing code 3195-01-M

Presidential Documents

Presidential Determination No. 91-37 of May 29, 1991

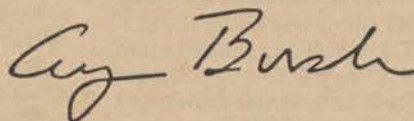
Determination Regarding End Strength Level of U.S. Armed Forces in Europe for Fiscal Year 1991

Memorandum for the Secretary of Defense

Consistent with section 406(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1546), I hereby authorize an end strength level of members of the Armed Forces assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization in excess of 261,855 for fiscal year 1991, and determine that the national security interests of the United States require such authorization.

You are authorized and directed to notify the Congress of this determination and of the necessity therefor contained in the attached justification, and to publish this determination in the Federal Register.

THE WHITE HOUSE,
Washington, May 29, 1991.



[FR Doc. 91-13461

Filed 6-3-91; 4:22 pm]

Billing code 3195-01-M

Rules and Regulations

Federal Register

Vol. 58, No. 108

Wednesday, June 5, 1991

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 30

[TB-88-019]

Tobacco Standards and Reports

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Tobacco Statistics Act authorizes and directs the Secretary of Agriculture to collect and publish statistics on the quantity of leaf tobacco held by all dealers, manufacturers, grower cooperative associations, and owners or agents other than the original growers, in the United States and Puerto Rico on a quarterly basis and publish an annual report on tobacco statistics. The Act specifies that the statistics shall show the quantity of tobacco in such detail as the Secretary shall deem to be practical and necessary for the purposes of the Act. This rule will revise certain sections of the regulations relating to Class 8; Foreign-grown cigar leaf; and Class 9; Foreign-grown types other than cigar leaf. Also, the quarterly report form will be revised.

EFFECTIVE DATE: July 5, 1991.

FOR FURTHER INFORMATION CONTACT: Larry L. Crabtree, Chief, Market Information and Program Analysis Branch, Agricultural Marketing Service, United States Department of Agriculture, P.O. Box 96456, room 506 Annex, Washington, DC 20090-6456, telephone (202) 447-3489.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department will amend the regulations contained in §§ 30.43, 30.44, and 30.60 of 7 CFR part 30.

A proposed rule was published in the Federal Register on August 21, 1990, (55 FR 34020). The proposed rule would

revise the reporting requirements under the Tobacco Statistics Act (7 U.S.C. 501 *et seq.*). Interested persons were provided 60 days to submit comments. Three comments were received. Two comments were received from tobacco dealers that agreed with the proposals. One comment was received from a manufacturer of tobacco products that questioned the proposed additional data on tobacco sheet. This comment is discussed below.

The proposed rule would revise the regulations contained in §§ 30.43, 30.44, and 30.60 of 7 CFR part 30. Section 30.43 (Class 8; foreign-grown cigar-leaf types) would be amended to replace type designations by individual countries with type designations based on utilization in the same manner as for domestic leaf. The new types would be wrapper, filler, and binder. The agency believes that reporting cigar stocks by individual countries no longer serves any useful function because production and trade patterns have changed and the country of origin no longer indicates likely utilization. The changes would also facilitate direct comparison with stocks of domestic cigar leaf.

Section 30.44 (Class 9; foreign-grown types other than cigar leaf) would be amended to add foreign-grown, fire-cured, and dark air-cured types for stocks reporting purposes. This would bring the section into line with current procedures for the inspection of imported tobacco.

The proposed revisions of §§ 30.43 and 30.44 are adopted in this final rule without change.

It was also proposed that § 30.60 (reports) would be amended to provide for the collection of data on stocks of stems and additional data on stocks of sheet tobacco. The commenter on this section argued that the proposal to list the contents of tobacco sheet would have the effect of disclosing product formulas. They suggested that either (a) a total quantity of tobacco sheet be listed without a breakdown of contents; or (b) list the quantities of the types already in or intended for use in tobacco sheet production.

This comment has merit. The reporting of the quantities of tobacco sheet segregated by the intended use will adequately serve the Department's purposes. Accordingly, § 30.60 as proposed is revised in this final rule to require the reporting of the total

quantity of stocks of tobacco sheet owned on the first day of the applicable quarter segregated by intended use between cigar wrapper, cigar binder, cigarettes, or other products.

This rule has been reviewed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). The Administrator, Agricultural Marketing Service, has determined that the rule will not have a significant economic impact on a substantial number of small entities. The rule will not substantially affect the normal movement of the commodity in the marketplace.

This rule has been reviewed under Departmental procedures established to implement Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule because it does not meet any of the criteria established for major rules under the executive order.

In compliance with the Office of Management and Budget (OMB) regulations, 5 CFR part 1320 Controlling Paperwork Burdens on the Public, which implements the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35, the information collection and recordkeeping requirements contained in this rule have been submitted to and approved by OMB and assigned control number 05810004.

List of Subjects in 7 CFR Part 30

Administrative practices and procedure, Advisory Committees, Government publications, Imports, Reporting and recordkeeping requirements, Tobacco.

For the reasons set forth in the preamble, the regulations of 7 CFR part 30 are amended as follows:

PART 30—[AMENDED]

1. The authority citation for 7 CFR part 30 is revised to read as follows:

Authority: 7 U.S.C. 502.

2. Section 30.43 is revised to read as follows:

§ 30.43 Class 8; Foreign-grown cigar-leaf types.

No group divisions are established for any of the types in Class 8. Type designations for Class 8 tobacco are based on the utilization of the leaf in the manufacture of cigars with no reference to physical characteristics. For tobacco

stocks reporting purposes Foreign-grown cigar leaf shall be designated as follows:

(a) Type 81 Foreign-grown cigar wrapper.

(b) Type 82 Foreign-grown cigar filler.

(c) Type 83 Foreign-grown cigar binder.

(d) Type 89 Other Foreign-grown cigar leaf

3. In § 30.44 the following types, paragraphs (d), (e) and (f) are added:

§ 30.44 Class 9; Foreign-grown types other than cigar-leaf.

* * * * *

(d) Type 95 Foreign-grown dark air-cured.

(e) Type 96 Foreign-grown fire-cured.

(f) Type 99 Other Foreign-grown cigarette and dark tobacco.

4. Section 30.60 is amended by revising paragraphs (a) and (b) to read as follows:

§ 30.60 Reports.

* * * * *

(a) Tobacco in leaf form. The pounds of tobacco in leaf form or stems owned on the first day of the applicable quarter, with all stocks reported by types of tobacco and whether stemmed or unstemmed.

(b) Tobacco in sheet form. The pounds of tobacco sheet owned on the first day of the applicable quarter shall be segregated as to whether for cigar wrapper, cigar binder, for cigarettes, or for other products.

Dated: May 29, 1991.

Daniel Haley,

Administrator.

[FR Doc. 91-13118 Filed 6-4-91; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 265

[Docket No. R-0731]

Delegations of Authority

May 20, 1991

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: Pursuant to sections 11 (i) and (k) of the Federal Reserve Act (12 U.S.C. 248 (i) and (k)), the Board is amending its Rules Regarding Delegations of Authority (12 CFR part 265) by reorganizing the rules. The Board also is delegating to its Secretary, with the concurrence of the General Counsel, the authority to make technical corrections to its regulations.

EFFECTIVE DATE: May 17, 1991.

FOR FURTHER INFORMATION CONTACT: John Harry Jorgenson, Senior Attorney (202/452-3778), or Patrick J. McDivitt, Attorney (202/452-3818), Legal Division; for the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452-3544); Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Section 11(k) of the Federal Reserve Act provides that the Board may delegate any of its functions, other than those related to rulemaking or principally to monetary and credit policies. Section 11(i) authorizes the Board to make regulations necessary to enable the Board to perform its duties effectively. Pursuant to this authority, the Board is making technical amendments to its Rules Regarding Delegation of Authority (12 CFR part 265). The amendments consist of grouping the individual delegations by subject-matter, giving each of them a descriptive title, renumbering them, and providing a table of contents for the rules. These changes are intended to make it easier to locate specific delegations. In addition to these revisions, some references and citations are being corrected, and some obsolete delegations are being deleted.

The Board also is adding a new delegation to these rules that will allow the Secretary of the Board, with the concurrence of the Board's General Counsel, to make technical revisions to its rules, regulations, and orders. Currently, the Secretary has delegated authority to conform references to administrative positions or units in Board rules to changes in administrative structure and to conform citations in Board rules with other regulatory or statutory changes. The new delegation would allow the Secretary, with the

concurrence of the Board's General Counsel, to make technical corrections (such as correcting spelling, grammar, construction, and organization) to Board rules, regulations, and orders and other records of Board action.

The table below presents the subject of each delegation, the CURRENT (i.e., old) section location in title 12 of the Code of Federal Regulations, and the NEW (i.e., as reorganized) section location in Title 12. The following abbreviations and references are used in the "SUBJECT" entries.

Abbrev/ref.	Explanation
Statutes:	
APA.....	Administrative Procedure Act.
BHC Act.....	Bank Holding Company Act.
CBC Act.....	Change in Bank Control Act.
FDI Act.....	Federal Deposit Insurance Act.
FOIA.....	Freedom of Information Act.
Board rules:	
Regarding Availability of Information.....	12 CFR Part 261.
of Procedure.....	12 CFR Part 262.
of Practice for Hearings.....	12 CFR Part 263.
Board regulations:	
Regulation D.....	12 CFR Part 204.
Regulation F.....	12 CFR Part 206 (Rescinded; part of Regulation H).
Regulation G.....	12 CFR Part 207.
Regulation H.....	12 CFR Part 208.
Regulation K.....	12 CFR Part 211.
Regulation L.....	12 CFR Part 212.
Regulation M.....	12 CFR Part 213 (Rescinded; now part of Regulation K).
Regulation P.....	12 CFR Part 216.
Regulation Q.....	12 CFR Part 217.
Regulation T.....	12 CFR Part 220.
Regulation U.....	12 CFR Part 221.
Regulation X.....	12 CFR Part 224.
Regulation Y.....	12 CFR Part 225.
Regulation Z.....	12 CFR Part 226.
Other terms:	
BS&R.....	Board's Division of Banking Supervision and Regulation.
dpc.....	Property acquired in satisfaction of a debt previously contracted.
FDIC.....	Federal Deposit Insurance Corporation.

RULES REGARDING DELEGATION OF AUTHORITY

[Conversion table]

Subject	Current	New
Delegations generally.....	265.1	265.1, 265.2 and 265.3(d)
Specific functions delegated to Board members.....	265.1a	265.4
Any Board member designated by Chairman.		
To review appeals under § 552(a)(6) of FOIA and the Board's Rules Regarding Availability of Information.....	265.1a(a)(1)	265.4(a)(1)

RULES REGARDING DELEGATION OF AUTHORITY—Continued

[Conversion table]

Subject	Current	New
To approve on recommendation of Staff Director for BS&R and General Counsel cease and desist orders approved by the Board pursuant to 12 U.S.C. 1818 (b) and (c).....	265.1a(a)(2)	265.4(a)(2)
Any Board member when requested by Secretary of Board. To act on request under Rules of Practice for Hearings.....	265.1a(b)	265.4(a)(3)
Any 3 Board members designated by the Chairman. To act in the absence of a quorum.....	265.1a(c)	265.4(b)
Specific functions delegated to Board employees and to Reserve Banks.....	265.2	265.5-265.11
The Secretary.....	265.2(a)	265.5
To make information available under the Board's Rules Regarding Availability of Information.....	265.2(a)(1)	265.5(b)(1)
To furnish reports on competitive factors to the Office of the Comptroller of the Currency and FDIC on a bank merger.....	265.2(a)(2)	265.5(c)(1)
To take actions a bank could take except for a management interlock with the bank holding company or other company. Laws affected are: § 18(c) of FDI Act. §§ 3(a) and 4(c) of BHC Act. §§ 5(a), 5(b), and 7(d) of the Bank Service Corporation Act. CBC Act (12 U.S.C. 1817(j)). §§ 9.25, and 25(a) of the Federal Reserve Act. Regulation Y. Regulation K.	265.2(a)(2)	265.5(c)(2)
To approve foreign branches of Edge of Agreement corporations under §§ 25 and 25(a) of the Federal Reserve Act and Regulations K and M if conditions are met.....	265.2(a)(3)	265.5(d)(1)
To grant specific consent to acquisition by an Edge of Agreement corporation of exporting under §§ 25 and 25(a) of the Federal Reserve Act and if Regulations K and M conditions are met.....	265.2(a)(4)	265.5(d)(2)
To permit Edge and Agreement corporations to exceed limitations in §§ 211.9(b) and conditions are met.....	265.2(a)(5)	Deleted
To approve the issuance by an Edge or Agreement corporation of debentures or bonds under §§ 25 and 25(a) of the Federal Reserve Act and Regulations K and M if conditions are met.....	265.2(a)(6)	Deleted
To grant specific consent to ownership by a bank holding company of voting shares of a company in a foreign country under § 4(c)(13) of the BHC Act and § 225.4(f) of Regulation Y if conditions are met.....	265.2(a)(7)	265.5(d)(2)
To extend the time period for public participation with respect to proposed rules under the provisions of §§ 262.2 (a) and (b) of the Board's Rules of Procedure.....	265.2(a)(8)	265.5(a)(1)
To report to the Secretary of the Treasury the average predominant prime rate under provisions of § 6621 of the Internal Revenue Code.....	265.2(a)(9)	265.5(a)(1)
To grant or deny requests for extension of any time period provided in any Board notice or rule.....	265.2(a)(10)	265.5(b)(3)
To conform references to administrative positions in outstanding Board rules and regulations.....	265.2(a)(11)	265.5(a)(3)
To approve future annual reports as required under the Privacy Act (5 U.S.C. 522a(p)).....	265.2(a)(12)	265.5(b)(2)
To permit member banks to waive the penalty for early withdrawal of a time deposit in § 217.4(d) of Regulation Q under § 19(j) of the Federal Reserve Act if conditions are met.....	265.2(a)(13)	265.5(e)(1)
The General Counsel		
To make control determinations under § 2(g) of the BHC Act.....	265.2(b)(1)	265.6(c)(1)
To make determinations that a company engaging in financial, fiduciary, or insurance activities falls within the exemption permitting retention by a bank holding company under § 4(c)(8) of the BHC Act.....	265.2(b)(2)	265.6(c)(2)
To certify for tax purposes assets distributions under §§ 1101-1103 and 6158 of the Internal Revenue Code.....	265.2(b)(3)	265.6(c)(4)
To issue an order for a hearing in order to determine that a company engaging in financial, fiduciary, or insurance activities falls within the exemption permitting retention by a bank holding company under § 4(c)(8) of the BHC Act.....	265.2(b)(4)	265.6(c)(2)
To make available information of the Board in the circumstances described in the Board's Rules Regarding Availability of Information.....	265.2(b)(5)	265.6(b)(1)
To designate Board staff attorneys as Board counsel in any proceeding conducted under § 263.6(d) of the Board's Rules of Practice for Hearings.....	265.2(b)(6)	265.6(a)(3)
To determine whether or not to grant a request for reconsideration or to deny a request for a stay of any action taken under § 263.3(i) of the Board's Rules of Procedure.....	265.2(b)(7)	265.6(a)(1)
To approve provisions of Reserve Bank operating circulars related to uniform services.....	265.2(b)(8)	265.6(a)(5)
To grant exceptions from the provisions of Regulation L when the primary Federal supervisor approves the exception under § 212.4(b) of that regulation.....	265.2(b)(9)	265.8(d)(1)
To revoke acceptance of and return as incomplete a notice filed under the CBC Act and extend the time during which action must be taken whenever the General Counsel determines, with concurrence of the Staff Director of BS&R, that the notice is materially incomplete or contains material information that is substantially inaccurate.....	265.2(b)(10)	265.6(c)(3)
To order, with concurrence of appropriate Division directors and Reserve Bank, a public meeting or other proceeding pursuant to § 262.25 of the Board's Rules of Procedure.....	265.2(b)(11) and 262.25(d)	265.6(a)(2)
To take or authorize others to take actions including administering oaths, taking depositions, under §§ 8(n) and 10(c) of the FDI Act and §§ 5(f) of the BHC Act.....	265.2(b)(12)	265.6(a)(4)
To grant requests for temporary interlocks, with concurrence of the Staff Director of BS&R, for low-income or minority or women's banks.....	265.2(b)(13)	265.6(d)(2)
To exercise the authority in § 5(d)(3) of the FDI Act ("Oakar" amendment) with the concurrence of the Staff Director of BS&R when a Reserve Bank concludes that it should not exercise such authority.....	265.2(b)(14)	265.6(c)(5)
The Staff Director of the Division of Banking Supervision and Regulation.....	265.2(c)	265.7
To select or approve appointment of examiners under §§ 9 and 25(a) of the Federal Reserve Act, § 5(c) of the BHC Act, and § 7(c)(1) of the Internal Banking Act of 1978.....	265.2(c)(1)	265.7(e)(4)
To require submission and publication of reports by an Edge corporation.....	265.2(c)(2)	265.7(d)(2)
To promulgate registration, annual report, and other forms under § 5 of the BHC Act after receiving clearance from and under the APA (5 U.S.C. 553).....	265.2(c)(3)	265.7(c)(1)
Under § 12(g) of the Securities Exchange Act to take certain actions.....	265.2(c)(4)	265.7(f)(1)
Under § 12(d) of the Securities Exchange Act to accelerate effective dates of registration on a national exchange.....	265.2(c)(5)	265.7(f)(3)
Under § 12(f) of the Securities Exchange Act to issue notices for unlisted trading.....	265.2(c)(6)	265.7(f)(4)
Under § 12(h) of the Securities Exchange Act to issue notices of exemption from registration.....	265.2(c)(7)	265.7(f)(2)
To permit mailing of proxy materials under § 206.5 (f) and (i) of Regulation F [now in § 208.16 of Regulation H].....	265.2(c)(8)	265.7(f)(6)(i)
To permit omission of financial statements from reports under §§ 206.41-206.43 of Regulation F [now § 208.16 of Regulation H].....	265.2(c)(9)	265.7(f)(9)(ii)
To exercise certain functions in (re: branching, dividends, capital stock, premises) when the Reserve Banks are unable or unwilling to perform.....	265.2(c)(10)	265.7(e)(5)

RULES REGARDING DELEGATION OF AUTHORITY—Continued

[Conversion table]

Subject	Current	New
To approve increases and reductions in the capital stock of an Agreement corporation and investments in Edge corporations.....	265.2(c)(11)	265.7(d)(3)
To exercise functions in § 265.2(f)(15) (i), (ii) and (iii) (i.e., security devices) when Reserve Bank is unwilling.....	265.2(c)(12)	265.7(e)(6)
To require submission of a report of condition, respecting any foreign bank holds stock acquired under Regulation M (now in Regulation K) pursuant to § 25, ¶ 7 of the Federal Reserve Act.....	265.2(c)(13)	265.7(d)(1)
To permit any member bank to accept drafts or bills of exchange drawn upon it for purposes of furnishing dollar exchange (§ 13(12) of the Federal Reserve Act).....	265.2(c)(14)	265.7(e)(2)
To certify to the FDIC that the Board considered the factors in § 6 of the FDI Act when admitting a state bank to membership.....	265.2(c)(15)	265.7(e)(1)
To accelerate the effective date of a registration statement with respect to a transfer agent. See § 17A(c)(2) of the Securities Exchange Act.....	265.2(c)(16)	265.7(f)(5)(i)
To withdraw or cancel the transfer agent registration member state bank under § 17A(c)(3)(C) of the Securities Exchange Act.....	265.2(c)(17)	265.7(f)(5)(ii)
To approve issuance of the list of OTC margin stocks under §§ 207.6(d), 220.17(d) and 221.7(d) of Regulations G, T, and U.....	265.2(c)(18)	265.7(f)(10)
Reserved.....	265.2(c)(19)	N/A
To make available reports and other information acquired pursuant to Regulations G, T, U, and X in circumstances described in §§ 261.6(a) (2) and (3) of the Board's Rules Regarding Availability of Information.....	265.2(c)(20)	265.7(b)(2)
To issue examination manuals and reports for use in connection with §§ 7, 8, 15B, and 17A(c) of the Securities Exchange Act.....	265.2(c)(21)	265.7(f)(9)
To refuse, with the concurrence of the General Counsel and Reserve Bank, an application to the Board to stay, modify, or terminate a cease and desist order previously issued by the Board under § 8(b) of the FDI Act or any written agreement.....	265.2(c)(22)	265.7(a)(1)
To grant or deny requests for waiver of examination or waiting periods for municipal securities activities.....	265.2(c)(23)	265.7(f)(7)
Reserved.....	265.2(c)(24)	N/A
To make examination reports of transfer agents, clearing agencies, and municipal securities dealers available to the SEC under § 17(c)(3) of the Securities Exchange Act.....	265.2(c)(25)	265.7(f)(8)
Reserved.....	265.2(c)(26)	N/A
To waive the 45 days' prior notice for establishing a branch overseas under §§ 25 and 25(a) of the Federal Reserve Act and §§ 211.3(a)(3) and 211.5(c)(2) of Regulation K.....	265.2(c)(27)	265.7(d)(4)(i)
To suspend the notification period in § 211.5(c)(2) of Regulation K.....	265.2(c)(28)	265.7(d)(4)(ii)
To grant or deny requests for a modification for the performance of a commitment or condition made under the BHC Act, the Bank Merger Act, the CBC Act, or the International Banking Act.....	265.2(c)(29)	265.7(a)(2)
To take actions the Reserve Bank could take under (f)(22) and (f)(28) if action will avert failure under §§ 3(a) and 4(c)(8) of the BHC Act and the CBC Act.....	265.2(c)(30)	265.7(c)(2)
To provide written certification of ERIISA violations by state member banks to the Labor Department.....	265.2(c)(31)	265.7(e)(3)
To determine the need to establish a transfer risk reserve under Subpart D and Regulation K.....	265.2(c)(32)	265.7(d)(6)
To issue, with concurrence of the General Counsel, a notice that a state member bank has insufficient capital under §§ 263.38 and 263.40 of the Board's Rules of Practice for Hearings.....	265.2(c)(33)	265.7(a)(3)
To permit, after consultation with the General Counsel, a foreign subsidiary of a bank holding company to invest in shares of a U.S. affiliate of the bank holding company under Subpart A of Regulation K.....	265.2(c)(34)	265.7(d)(5)
To waive, with the concurrence of the Board's General Counsel, the publication requirement of the CBC Act when publication would threaten the safety of the Bank.....	265.2(c)(35)	265.7(c)(3)
To approve the application of a state member bank or U.S. branch under § 403.5(g) of Treasury regulations (17 CFR § 403.5(g)) implementing the Government Securities Act.....	265.2(c)(36)	265.7(a)(4)
To exercise the authority in § 5(d)(3) of the FDI Act ("Oakar" amendment) with the concurrence of the General Counsel when a Reserve Bank concludes that it should not exercise such authority.....	265.2(c)(37)	265.7(c)(5)
To approve requests to engage in underwriting, distributing, and dealing in shares outside the United States, and to approve hedging techniques used to determine the amount of shares held in dealing accounts.....	265.2(c)(38)	265.7(d)(7)
Reserved.....	265.2(d)-(e)	N/A
Each Federal Reserve Bank.....	265.2(f)	265.11
To approve state member bank branches after considering factors under § 9 of the Federal Reserve Act.....	265.2(f)(1)	265.11(e)(3)
To permit a state member bank to declare dividends under § 9, ¶ 6 of the Federal Reserve Act and R.S. § 5199 (12 U.S.C. 60).....	265.2(f)(2)	265.11(e)(4)
To approve or deny the required six month's prior notice of intent to withdraw from membership under § 9, ¶ 10 of the Federal Reserve Act.....	265.2(f)(3)	265.11(e)(2)
To permit a state member bank to reduce its capital under § 9, ¶ 11 of the Federal Reserve Act.....	265.2(f)(4)	265.11(e)(5)
To extend the time when which an affiliate of a state member bank must file reports under § 9, ¶ 17 of the Federal Reserve Act.....	265.2(f)(5)	265.11(a)(1)
To permit a member bank or U.S. branch of a foreign bank subject to reserves to accept drafts or bills of exchange up to 200% of capital.....	265.2(f)(6)	265.11(e)(6)
To permit a state member bank to invest in bank premises under § 24A of the Federal Reserve Act.....	265.2(f)(7)	265.11(e)(7)
To extend the time under which an Edge corporation must divest itself of dpc property under § 25(a), ¶ 9 of the Federal Reserve Act.....	265.2(f)(8)	265.11(a)(2)
To extend the period of corporate existence of an Edge corporation under § 25(a), ¶ 22 of the Federal Reserve Act.....	265.2(f)(9)	265.11(a)(3)
To extend the time in which a bank holding company must file a registration statement under § 5(a) of the BHC Act.....	265.2(f)(10)	265.11(a)(4)
To extend the time for a bank holding company to divest of nonbanking organization under § 4(a) of the BHC Act.....	265.2(f)(11)	265.11(a)(5)
To extend the time for a bank holding company to divest of nonbanking interest acquired dpc under § 4(c)(2) of the BHC Act.....	265.2(f)(12)	265.11(a)(6)(i)
To require reports under oath to determine whether a company is complying with the BHC Act.....	265.2(f)(13)	265.11(c)(1)
To extend the time within which a bank surrendering membership must surrender its Federal Reserve Bank stock under § 208.11(c) of Regulation H.....	265.2(f)(14)	265.11(a)(7)
To require Regulation P compliance.....	265.2(f)(15)	265.11(e)(8)
To extend time for publication of reports of condition under § 208.10(a) of Regulation H.....	265.2(f)(16)	265.11(a)(8)
To approve applications for terminations of registration under § 207.3(a)(2) of Regulation G.....	265.2(f)(17)	265.11(f)(1)
To issue to an Edge corporation a final permit to commence business and to approve amendments to its articles of association under § 25(a)(2) of the Federal Reserve Act and § 211.4(a)(2) of Regulation K.....	265.2(f)(18)	265.11(d)(2)
Under § 225.23(a)(2) of Regulation Y.....	265.2(f)(19)	265.11(c)(2)

RULES REGARDING DELEGATION OF AUTHORITY—Continued

[Conversion table]

Subject	Current	New
To notify a bank holding company that additional information is required in connection with the acquisition of a going concern.		
To permit a bank holding company, under exigent circumstances, to acquire a going concern without waiting 30 days.		
Under § 225.4(b)(1) of Regulation Y and subject to § 265.3 if a person submitting adverse comments that the Reserve Bank has decided are not substantive files a petition for review of that decision.	265.2(f)(20)	265.11(c)(3)
To permit a bank holding company to engage <i>de novo</i> in activities specified in § 225.4.		
To notify a bank holding company that the proposal should not be consummated until authorized by the Reserve Bank or processed under § 225.4(b)(2).		
To permit a bank holding company to consummate the proposal before the 45-day period in § 225.4(b)(1) because of exigent circumstances.		
To permit or stay a proposed modification or relocation of activities engaged in on the same basis as <i>de novo</i> proposals under § 265.2(f)(20) of the Board's Rules Regarding Delegation of Authority.	265.2(f)(21)	265.11(c)(4)
To approve applications and to furnish to the OCC and FDIC reports on competitive factors if conditions are met.	265.2(f)(22)	265.11(c)(11)
Laws covered are:		
§ 18(c) of the FDI Act.		
§§ 3(a) and 4(c)(8) of the BHC Act.		
§§ 5(a), 5(b), and 7(d) of the Bank Service Corporation Act.		
§§ 225.14 and 225.23 of Regulation Y.		
To approve applications for membership under § 9 of the Federal Reserve Act if conditions are met.	265.2(f)(23)	265.11(e)(1)
To grant a bank holding company a 90-day extension for filing an annual report under § 5(c) of the BHC Act.	265.2(f)(24)	265.11(a)(9)
To extend the time within which an investor must divest itself of interests in a foreign portfolio acquired dpc under § 211.5(e) of Regulation K.	265.2(f)(25)	265.11(a)(10)
With the prior approval of the Staff Director of BS&R and the General Counsel.	265.2(f)(26)	265.11(a)(15)
To enter into an agreement with a bank holding company under § 8(b) of the FDI Act.		
To stay, modify or terminate such an agreement.		
To stay or modify an outstanding cease-and-desist order.		
To extend the time within which a company or a bank must divest dpc property under §§ 2(a)(5)(10) and 3(a) of the BHC Act.	265.2(f)(27)	265.11(a)(6)(8)
To determine the informational sufficiency of notices under the CBC Act if conditions are met.	265.2(f)(28)	265.11(c)(5)
To approve the appointment of assistant Federal Reserve agents under § 4, ¶ 21 of the Federal Reserve Act.	265.2(f)(29)	265.11(a)(16)
To classify member banks for the purposes of director selection under § 4, ¶ 16 of the Federal Reserve Act.	265.2(f)(30)	265.11(e)(9)
To extend the time for a bank holding company to acquire shares, or a bank, or to consummate a merger.	265.2(f)(31)	265.11(a)(11)
To extend the time within which.	265.2(f)(32)	265.11(a)(12)
A state member bank may establish a branch.		
A member bank may establish a foreign branch.		
An Edge or Agreement corporation may establish a branch or agency.		
To extend the time within which an Edge or Agreement corporation or a member bank or bank holding company may purchase stock under § 25 or 25(a) of the Federal Reserve Act or § 4(c)(13) of the BHC Act.	265.2(f)(33)	265.11(a)(13)
To extend the time within which membership must be achieved.	265.2(f)(34)	265.11(a)(14)
To waive the penalty for deficient reserves.	265.2(f)(35)	265.11(e)(10)
To grant time for compliance with Regulation L.	265.2(f)(36)	265.11(g)(1)
To enter into an agreement with a foreign bank regarding out-of-state deposits under § 5 of the International Banking Act of 1978.	265.2(f)(37)	265.11(d)(5)
To approve an Edge corporation application to establish a foreign branch under § 211.4(c)(2) of Regulation K.	265.2(f)(38)	265.11(d)(3)
To grant prior specific consent to an investor for investment in its first subsidiary under § 211.5(c) of Regulation K.	265.2(f)(39)	265.11(d)(7)
To require an investor to file an application for specific consent under § 211.5(c)(2) of Regulation K.	265.2(f)(40)	265.11(d)(8)
To accept agreements from nonmember banks concerning extensions of credit to finance securities transactions under § 8(a) of the Securities Exchange Act.	265.2(f)(41)	265.11(f)(2)
To determine that termination of a bank holding company's grandfathered activities is not warranted under § 4(a)(2) of the BHC Act.	265.2(f)(42)	265.11(c)(7)
To approve establishment of a foreign branch by a member bank where the application is not one for a full-service branch under § 211.3(a) of Regulation K.	265.2(f)(43)	265.11(d)(4)
To waive the 30 days' prior notice requirement for a foreign bank's change of home state.	265.2(f)(44)	265.11(d)(6)
To approve applications by a bank holding company to open additional nonbanking offices under §§ 4(c)(8) and 5(b) of the BHC Act and § 225.4(b) of Regulation Y.	265.2(f)(45)	265.11(c)(8)
To issue a notice of intent not to disapprove a proposed investment in an export trading company under § 4(c)(14) of the BHC Act.	265.2(f)(46)	265.11(d)(9)
To approve applications by a U.S. banking corporation to establish an Edge corporation under § 25(a) of the Federal Reserve Act.	265.2(f)(47)	265.2(d)(1)
With the concurrence of the Staff Director for BS&R and the General Counsel to waive failure to comply with notice requirements under the CBC Act if it would seriously threaten the target.	265.2(f)(48)	265.11(c)(6)
To decide not to disapprove notices to establish interlocks with diversified S&L companies under § 205.8 of the Depository Institution Management Interlocks Act.	265.2(f)(49)	265.11(g)(2)
To approve a state member bank's proposed subordinated debt issue if certain conditions are met.	265.2(f)(50)	265.11(e)(11)
To approve retirement prior to maturity of capital notes issued.	265.2(f)(51)	265.11(e)(12)
To exercise authority under § 5(d)(3) of the FDI Act ("Oskar" amendment).	265.2(f)(52)	265.11(c)(10)
To approve futures commission merchant activities with respect to financial instruments.	265.2(f)(53)	265.11(d)(10)
Staff Director for International Finance.	265.2(g)	265.8
To approve foreign accounts with the New York Reserve Bank under § 14(e) of the Federal Reserve Act.	265.2(g)	265.8(a)
Director of the Division of Consumer and Community Affairs.	265.2(h)	265.9
To issue examination manuals and reports in consultation with the Legal Division in connection with consumer protection laws.	265.2(h)(1)	265.9(a)
To call meetings of and consult with the Consumer Advisory Council under § 703(b) of the Consumer Protection Act.	265.2(h)(2)	265.9(b)
To determine whether a state law is inconsistent with Federal law and regulations under the Truth in Lending Act and the Board's Regulation Z.	265.2(h)(3)	265.9(c)(1)
To determine whether a state law is inconsistent with Federal law and regulations under § 919 of the Electronic Funds Transfer Act.	265.2(h)(4)	265.9(c)(2)

RULES REGARDING DELEGATION OF AUTHORITY—Continued

[Conversion table]

Subject	Current	New
To determine whether a state law is inconsistent with Federal law and regulations under § 705(f) of the Equal Credit Opportunity Act	265.2(h)(5)	265.9(c)(3)
To determine whether a state law is inconsistent with Federal law and regulations under § 306(a) of the Home Mortgage Disclosure Act	265.2(h)(6)	265.9(c)(4)
Review of action at delegated level	265.3	265.3
Functions delegated to the Secretary of the Federal Open Market Committee	N/A	265.10
To approve records of policy actions for inclusion into the Board's Annual Report.		

Notice and public participation; effective date. The provisions of 5 U.S.C. 553(b) relating to notice and public participation have not been followed in connection with the adoption of these amendments because they amend a rule of agency procedure and practice, and section 553(b) does not apply to such rules. The Board finds that it is impracticable and contrary to the public interest to delay adoption because the reorganization of this rule substantially improves the ability of users to locate specific delegations in the rule, relieving the users of an unnecessary burden.

The provisions of 5 U.S.C. 553(d) generally prescribing 30 days' prior notice of the effective date of a rule have not been followed in connection with the adoption of these amendments. Section 553(d) provides that such prior notice is not necessary whenever a rule reduces regulatory burdens or there is good cause for finding that such notice is contrary to the public interest. This rule, which is procedural and technical in nature, does reduce such a burden, and, as noted, the Board has determined that delaying the effectiveness of that relief is contrary to the public interest.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Public Law No. 96-354, 5 U.S.C. 601 *et seq.*), the Board certifies that the final amendments will not have a significant adverse economic impact on a substantial number of small entities. The final amendments reorganize the Board's Rules Regarding Delegation of Authority and reduce certain regulatory burdens for all depository institutions, reduce certain burdens for small depository institutions, and have no particular adverse effect on other small entities.

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 - (d) International banking.
 - (1) Establishment of foreign branch or foreign agency or of Edge or Agreement corporations.
 - (2) Acquisition of foreign company or U.S. company financing exports.
 - (e) Member banks.
 - (1) Waiver of penalty for early withdrawals of time deposits.
 - (2) [Reserved.]

265.6 Functions Delegated to General Counsel

- (a) Procedure.
 - (1) Reconsideration of Board action.
 - (2) Public meetings.
 - (3) Designation of Board counsel for hearings.
 - (4) Oaths, depositions, subpoenas.

- (5) Operating circulars.
- (b) Availability of Information.
 - (1) FOIA requests.
 - (2) [Reserved.]
 - (c) Bank holding companies; Change in bank control; Mergers.
 - (1) Control determinations under section 2(g) of BHC Act.
 - (2) Control determinations under section 4(c)(8) of BHC Act.
 - (3) Notices under CBC Act.
 - (4) Tax certifications.
 - (5) Acquisition approvals under section 4(d)(3) of FDI Act.
 - (d) Management interlocks.
 - (1) General exceptions.
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- 265.7 Functions Delegated to Staff Director of Division of Banking Supervision and Regulation
 - (a) Procedure.
 - (1) Cease and desist orders.
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 - (3) Notice of insufficient capital.
 - (4) Obtaining possession or control of securities; extending time period.
 - (b) Availability of Information.
 - (1) FOIA requests.
 - (2) FOIA; Availability of information.
 - (c) Bank holding companies; Change in bank control; Mergers.
 - (1) Bank holding company registration forms and annual reports.
 - (2) Emergency action.
 - (3) Waiver of notice.
 - (4) Notices for addition or change of directors or officers.
 - (5) Acquisition approvals under section 4(d)(3) of FDI Act.
 - (d) International banking.
 - (1) Foreign bank reports.
 - (2) Edge corporation reports.
 - (3) Capital stock of Edge corporation; articles of association; additional investments in Agreement corporation.
 - (4) Waiver or suspension of prior notice; specific consent.
 - (5) Investment by foreign subsidiaries in U.S. affiliates.
 - (6) Allocated transfer risk reserves.
 - (7) Underwriting and dealing authority outside the United States; hedging techniques.
 - (e) Member banks.
 - (1) Membership certification to FDIC.
 - (2) Dollar exchange.
 - (3) ERISA violations.
 - (4) Examiners.

(5) Capital stock reduction; branch applications; declaration of dividends; investment in bank premises.

(6) Security devices; Regulation P.

(f) Securities.

(1) Registration statements by member banks.

(2) Exemption from registration.

(3) Accelerating registration of security on national securities exchange.

(4) Unlisted trading in security of state member bank.

(5) Transfer agent registration; acceleration; withdrawal or cancellation.

(6) Proxy solicitation; financial statements.

(7) Municipal securities dealers.

(8) Making reports available to SEC.

(9) Issuing examination manuals, forms, and other materials.

(10) List of OTC margin stocks.

265.8 Functions Delegated to Staff Director of Division of International Finance

(a) Establishment of foreign accounts.

(b) [Reserved.]

265.9 Functions Delegated to Director of Division of Consumer and Community Affairs

(a) Issuing examination manuals, forms, and other materials.

(b) Consumer Advisory Council.

(c) Determining inconsistencies between state and federal laws.

265.10 Functions Delegated to Secretary of Federal Open Market Committee

(a) Records of policy actions.

(b) [Reserved.]

265.11 Functions Delegated to Federal Reserve Banks

(a) Procedure.

(1) Member bank affiliate's reports; time extension.

(2) Edge corporation's divestiture of stock acquired dpc; time extension.

(3) Edge corporation's corporate existence; time extension.

(4) Bank holding company registration statement; time extension.

(5) Bank holding company divestiture of nonbanking interests; time extension.

(6) Bank holding company divestiture of nonbanking dpc interests; time extension.

(7) Member bank's surrender of Reserve Bank stock upon withdrawal from membership; time extension.

(8) Member bank's reports of condition; time extension.

(9) Bank holding company's annual reports; time extension.

(10) Regulation K—Divestiture of interests acquired dpc; time extension.

(11) Bank holding company's acquisition of shares, opening new bank, consummating merger; time extension.

(12) Member bank's establishing domestic or foreign branch; Edge or Agreement corporation's establishing branch or agency; time extension.

(13) Purchase of stock by Edge or Agreement Corporation, member bank, or bank holding company; time extension.

(14) Federal Reserve membership.

(15) Enforcement actions; written agreements; cease and desist orders.

(16) Appointment of assistant Federal Reserve agents.

(b) Availability of Information.

(1) Availability of Information; Board records.

(2) [Reserved.]

(c) Bank holding companies; Change in bank control; Mergers.

(1) Require reports under oath.

(2) Acquisition of going concern—authorization of consummation; early consummation.

(3) Petition for review of decision that adverse comments are not substantive; permit proposed de novo activities; authorization of consummation; early consummation.

(4) Permit or stay of modification or location of activities.

(5) Notices under CBC Act.

(6) Failure to comply with publication requirement under CBC Act.

(7) Grandfathered nonbanking activities.

(8) Opening of additional nonbanking offices.

(9) Notices for addition or change of directors or officers.

(10) Acquisition approvals under section 5(d)(3) of FDI Act.

(11) Applications requiring Board approval; competitive factors reports for bank mergers.

(d) International banking.

(1) Application to establish Edge corporation.

(2) Issuance of permit to Edge corporation to commence business.

(3) Edge corporation establishing branch abroad.

(4) Member bank establishing foreign branch.

(5) Agreement with foreign bank concerning deposits of out-of-home-state branch.

(6) Waiver of 30-day prior notification period.

(7) Granting specific consent.

(8) Requiring application for specific consent.

(9) Investment in export trading company.

(10) Futures commission merchant activities.

(e) Member banks.

(1) Approval of membership applications.

(2) Waiver of notice of intention to withdraw from membership.

(3) Approval of branch applications.

(4) Declaration of dividends in excess of net profits.

(5) Reduction of capital stock.

(6) Acceptance of drafts and bills of exchange.

(7) Investment in bank premises in excess of capital stock.

(8) Security devices.

(9) Classifying member banks for election of directors.

(10) Waiver of penalty for deficient reserves.

(11) Approval of subordinated debt.

(12) Retirement of subordinated debt.

(f) Securities.

(1) Application for termination of registration.

(2) Agreements from nonmember banks; extensions of credit.

(g) Management interlocks.

(1) Change in circumstances requiring termination of management interlocks; Regulation L.

(2) Depository Institutions Management Interlocks Act.

List of Subjects in 12 CFR Part 265

Delegations of authority, Banks, Banking, Federal Reserve System.

For the reasons set forth above, the Board amends 12 CFR Chapter II to read as follows:

Part 265 is revised to read as follows:

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Sec.

265.1 Authority, purpose, and scope.

265.2 Delegation of functions generally.

265.3 Board review of delegated actions.

265.4 Functions delegated to Board Members.

265.5 Functions delegated to Secretary of the Board.

265.6 Functions delegated to General Counsel.

265.7 Functions delegated to Staff Director of Division of Banking Supervision and Regulation.

265.8 Functions delegated to Staff Director of Division of International Finance.

265.9 Functions delegated to Director of Division of Consumer and Community Affairs.

265.10 Functions delegated to Secretary of Federal Open Market Committee.

265.11 Functions delegated to Federal Reserve Banks.

Authority: Section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)).

§265.1 Authority, purpose, and scope.

(a) Pursuant to section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)), the Board of Governors of the Federal Reserve System (the "Board") may delegate, by published order or rule, any of its functions other than those relating to rulemaking or pertaining principally to monetary and credit policies to Board members and employees, Reserve Banks, or administrative law judges. Pursuant to section 11(i) of the Federal Reserve Act (12 U.S.C. 248(i)), the Board may make all rules and regulations necessary to enable it to effectively perform the duties, functions, or services specified in that Act. Pursuant to section 5(b) of the Bank Holding Company Act (12 U.S.C. 1844(b)), the Board is authorized to issue such regulations and orders as may be necessary to enable it to administer and carry out the purposes of this Act and prevent evasions thereof. Other provisions of Federal law also may authorize specific delegations by the Board.

(b) The Board's Rules Regarding Delegation of Authority (12 CFR part 265) detail the responsibilities that the Board has delegated. The table of contents, titles, and headings that appear in these rules are used solely for

their descriptive convenience. Section 265.4 addresses the specific functions delegated to Board members. The functions that have been delegated to Board employees are set forth in §§ 265.5, 6, 7, 8, and 9. The functions that have been delegated to the Secretary of the Federal Open Market Committee are set forth in § 265.10. The functions that have been delegated to the Reserve Banks are set forth in § 265.11. Provisions for review of any action taken pursuant to delegated authority are found in § 265.3. Except as otherwise indicated in these rules, the Board will review a delegated action only if a Board member, at his or her own initiative, requests a review.

§265.2 Delegation of functions generally.

(a) The Board has determined to delegate authority to exercise the functions described in this part.

(b) The Chairman of the Board shall assign responsibility for performing such delegated functions.

§265.3 Board review of delegated actions.

(a) *Request by Board member.* The Board shall review any action taken at a delegated level upon the vote of one member of the Board, either on the member's own initiative or on the basis of a petition for review by any person claiming to be adversely affected by the delegated action.

(b) *Petition for review.* A petition for review of a delegated action must be received by the Secretary of the Board not later than the fifth day following the date of the delegated action.

(c) *Notice of review.* The Secretary shall give notice of review by the Board of a delegated action to any person with respect to whom the action was taken not later than the tenth day following the date of the delegated action. Upon receiving notice, such person may not proceed further in reliance upon the delegated action until notified of the outcome of the review by the Board.

(d) *By action of a delegee.* A delegee may submit any matter to the Board for determination if the delegee considers it appropriate because of the importance or complexity of the matter.

§265.4 Functions delegated to Board members.

(a) *Individual members.* Any Board member designated by the Chairman is authorized:

(1) *Review of denial of access to Board records; FOIA.* To review and determine an appeal of denial of access to Board records under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), and the

Board's rules regarding such access (12 CFR parts 261 and 261a, respectively).

(2) *Approval of amendments to notice of charges or cease and desist orders.* To approve (after receiving recommendations of the Staff Director of the Division of Banking Supervision and Regulation and the General Counsel) amendments to any notice, temporary order, or proposed order previously approved by the Board in a specific formal enforcement matter (including a notice of charges or removal notice) or any proposed or temporary cease and desist order previously approved by the Board under 12 U.S.C. 1818 (b) and (c).

(3) *Requests for permission to appeal rulings.* (i) To act, when requested by the Secretary, upon any request under § 263.10(e) of the Board's Rules of Practice for Hearings (12 CFR part 263) for special permission to appeal from a ruling of the presiding officer on any motion made at a hearing conducted under the rules, and if special permission is granted, the merits of the appeal shall be presented to the Board for decision.

(ii) Notwithstanding § 265.3 of this part, the denial of special permission to appeal a ruling may be reviewed by the Board only if a Board member requests a review within two days of the denial. No person claiming to be adversely affected by the denial shall have any right to petition the Board or any Board member for review or reconsideration of the denial.

(b) *Three member Action Committee.* Any three Board members designated from time to time by the Chairman (the "Action Committee") are authorized:

(1) *Absence of quorum.* To act, upon certification by the Secretary of the Board of an absence of a quorum of the Board present in person, by unanimous vote on any matter that the Chairman has certified must be acted upon promptly in order to avoid delay that would be inconsistent with the public interest except for matters:

(i) Relating to rulemaking;
(ii) Pertaining principally to monetary and credit policies; and
(iii) For which a statute expressly requires the affirmative vote of more than three Board members.

(2) [Reserved.]

§265.5 Functions delegated to Secretary of the Board.

The Secretary of the Board (or the Acting Secretary) is authorized:

(a) *Procedure—(1) Extension of time period for public participation in proposed regulations.* To extend, when appropriate under the Board's Rules of Procedure (12 CFR 262.2 (a) & (b)), the time period for public participation with

respect to proposed regulations of the Board.

(2) *Extension of time period in notices, orders, rules, or regulations.* (i) To grant or deny requests to extend any time period in any notice, order, rule, or regulation of the Board relating to filing information, comments, opposition, briefs, exceptions, or other matters, in connection with any application, request or petition for the Board's approval, authority, determination, or permission, or any other action by the Board.

(ii) Notwithstanding § 265.3 of this part, no person claiming to be adversely affected by any such extension of time by the Secretary shall have the right to petition the Board or any Board member for review or reconsideration of the extension.

(3) *Conforming citations and references in Board rules and regulations.* (i) To conform references to administrative positions or units in Board rules and regulations with changes in the administrative structure of the Board and in the government and agencies of the United States.

(ii) To conform citations and references in Board rules and regulations with other regulatory or statutory changes adopted or promulgated by the Board or by the government or agencies of the United States.

(4) *Technical corrections in Board rules and regulations.* To make technical corrections, such as spelling, grammar, construction, and organization (including removal of obsolete provisions and consolidation of related provisions), to the Board's rules, regulations, and orders and other records of Board action but only with the concurrence of the Board's General Counsel.

(b) *Availability of information—(1) FOIA requests.* To make available, upon request, information in Board records and consider requests for confidential treatment of information in Board records under the Freedom of Information Act (5 U.S.C. 552) and under the Board's Rules Regarding Availability of Information (12 CFR part 261).

(2) *Annual reports on Privacy Act.* To approve annual reports required by the Privacy Act (5 U.S.C. 552a(p)) from the Board to the Office of Management and Budget for inclusion in the President's annual consolidated report to Congress.

(3) *Report on prime rate of commercial banks.* To determine and report, under 26 U.S.C. (IRC) 6621, to the Secretary of the Treasury the average predominant prime rate quoted by commercial banks to large businesses.

(c) *Bank holding companies; Change in bank control; Mergers*—(1) *Reports on competitive factors in bank mergers.* To furnish reports on competitive factors involved in a bank merger to the Comptroller of the Currency and the Federal Deposit Insurance Corporation under the provisions of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)); The Bank Holding Company Act (12 U.S.C. 1842(a), 1843(c)(14)); the Bank Service Corporation Act (12 U.S.C. 1865(a), (b), 1867(d)); the Change in Bank Control Act (12 U.S.C. 1817(j)); and the Federal Reserve Act (12 U.S.C. 321 *et seq.*, 601–604a, 611 *et seq.*).

(2) *Reserve Bank director interlocks.* To take actions the Reserve Bank could take except for the fact that the Reserve Bank may not act because a director, senior officer, or principal shareholder of any holding company, bank, or company involved in the transaction is a director of a Reserve Bank or branch.

(d) *International banking*—(1) *Establishment of foreign branch or foreign agency or of Edge or Agreement Corporations.* To approve, under sections 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 601 and 604) and Regulation K (12 CFR part 211), the establishment, directly or indirectly, of a foreign branch or agency by a member bank or an Edge or Agreement Corporation if all of the following conditions are met:

(i) The appropriate Reserve Bank and relevant divisions of the Board's staff recommend approval;

(ii) No significant policy issue is raised on which the Board has not expressed its view; and

(iii) the application is not for the applicant's first full-service branch in a foreign country.

(2) *Acquisition of foreign company or U.S. company financing exports.* To grant, under sections 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 601 & 604) and section 4(c)(13) of the Bank Holding Company Act (12 U.S.C. 1843(c)(13)) and the Board's Regulations K and Y (12 CFR parts 211 and 225), specific consent to the acquisition, either directly or indirectly, by a member bank, an Edge or Agreement corporation, or a bank holding company of stock of a company chartered under the laws of a foreign country or a company chartered under the laws of a state of the United States that is organized and operated for the purpose of financing exports from the United States, and to approve any such acquisition that may exceed the limitations of section 25(a) of the Federal Reserve Act based on the company's capital and surplus, if all of the following conditions are met:

(i) The appropriate Reserve Bank and all relevant divisions of the Board's staff recommend approval;

(ii) No significant policy issue is raised on which the Board has not expressed its view;

(iii) The acquisition does not result, either directly or indirectly, in the bank, corporation, or bank holding company acquiring effective control of the company, except that this condition need not be met if:

(A) The company is to perform nominee, fiduciary, or other services incidental to the activities of a foreign branch or affiliate of the bank holding company, or corporation; or

(B) The stock is being acquired from the parent bank or bank holding company, or subsidiary Edge or Agreement corporation, as the case may be, and the selling parent or subsidiary holds the stock with the consent of the Board pursuant to Regulations K and Y (12 CFR parts 211 and 225).

(e) *Member banks*—(1) *Waiver of penalty for early withdrawals of time deposits.* To permit depository institutions to waive the penalty for early withdrawal of time deposits under section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) and § 204.2 of Regulation D (12 CFR part 204) if the following conditions are met:

(i) The President declares an area of major disaster or emergency area pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141);

(ii) The waiver is limited to depositors suffering disaster or emergency related losses in the officially designated area; and

(iii) The appropriate Reserve Bank and all relevant divisions of the Board's staff recommend approval.

(2) [Reserved.]

§ 265.6 Functions delegated to General Counsel.

The Board's General Counsel (or the General Counsel's delegee) is authorized:

(a) *Procedure*—(1) *Reconsideration of Board action.* To determine whether to grant a request for reconsideration of any Board action on an application under § 262.3(i) of the Board's Rules of Procedure (12 CFR part 262).

(2) *Public meetings.* To order, after consulting with the directors of other interested divisions of the Board and the appropriate Reserve Bank, that a public meeting or other proceeding be held, under § 262.25 of the Board's Rules of Procedure (12 CFR part 262), in connection with any application or notice filed with the Board, and to designate the presiding officer in the

proceeding under terms and conditions the General Counsel deems appropriate.

(3) *Designation of Board counsel for hearings.* To designate Board staff attorneys as Board counsel in any proceeding ordered by the Board in accordance with § 263.6 of the Board's Rules of Practice for Hearings (12 CFR part 263).

(4) *Oaths, depositions, subpoenas.* To take, or authorize designated persons to take, with the concurrence of the Staff Director of the Division of Banking Supervision and Regulation, actions permitted under 12 U.S.C. 1818(n), 1820(c), and 12 U.S.C. 1844(f), including administering oaths and affirmations, taking depositions, and issuing, revoking, quashing, or modifying subpoenas duces tecum.

(5) *Operating circulars.* To approve provisions of Reserve Bank operating circulars related to uniform services.

(b) *Availability of Information*—(1) *FOIA requests.* To make available information of the Board of the nature and in the circumstances described in the Board's Rules Regarding Availability of Information (12 CFR part 261).

(2) [Reserved.]

(c) *Bank holding companies; Change in bank control; Mergers*—(1) *Control determinations under section 2(g) of BHC Act.* To determine whether a company that transfers shares under section 2(g) of the Bank Holding Company Act (12 U.S.C. 1841(g)) is incapable of controlling the transferee.

(2) *Control determinations under section 4(c)(8) of BHC Act.* To determine, or issue an order for a hearing to determine, whether a company engaged in financial, fiduciary, or insurance activities falls within the exemption in section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)), permitting retention or acquisition of control thereof by a bank holding company.

(3) *Notices under CBC Act.* To revoke acceptance of and return as incomplete a notice filed under the Change in Bank Control Act (12 U.S.C. 1817(j)) or to extend the time during which action must be taken on a notice where the General Counsel determines, with the concurrence of the Staff Director of the Division of Banking Supervision and Regulation, that the notice is materially incomplete under that Act or Regulation Y (12 CFR part 225) or contains material information that is substantially inaccurate.

(4) *Tax certifications.* To make prior and final certification for federal tax purposes (26 U.S.C. (IRC) 1101–1103, 6158) with respect to distributions

pursuant to the Bank Holding Company Act (12 U.S.C. 1841 et seq.).

(5) *Acquisition approval under section 5(d)(3) of the FDI Act.* To exercise, with the concurrence of the Staff Director of the Division of Banking Supervision and Regulation, the functions described in § 265.11(c)(10) of this part (which refers to section 5(d)(3) of the FDI Act) in those cases in which the appropriate Federal Reserve Bank concludes that, because of unusual considerations, or for other good cause, it should not take action.

(d) *Management interlocks—(1) General exceptions.* To grant exceptions from the prohibitions of Regulation L (12 CFR part 212) when the primary federal supervisor of the depository institution in need of management assistance approves.

(2) *Temporary exceptions.* To grant requests, after consultation with the Staff Director for the Division of Banking Supervision and Regulation, for temporary director interlocks under Regulation L (12 CFR part 212) for newly chartered banks, banks in low income areas, minority banks, women's banks, organizations experiencing conditions endangering their safety or soundness, organizations sponsoring a credit union, and organizations that lose thirty percent or more of their directors or management officials due to changes in circumstances.

§ 265.7 Functions delegated to Staff Director of Division of Banking Supervision and Regulation.

The Board's Staff Director of the Division of Banking Supervision and Regulation (or the Director's designee) is authorized:

(a) *Procedure—(1) Cease and desist orders.* To refuse, with the prior concurrence of the appropriate Reserve Bank and the Board's General Counsel, an application to the Board to stay, modify, terminate, or set aside any effective cease and desist order previously issued by the Board under section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)), or any written agreement between the Board or the Reserve Bank and a bank holding company or any nonbanking subsidiary thereof or a state member bank.

(2) *Modification of commitments or conditions.* To grant or deny requests for modifying, including extending the time for, performing a commitment or condition relied on by the Board or its designee in taking any action under the Bank Holding Company Act, the Bank Merger Act, the Change in Bank Control Act of 1978, the Federal Reserve Act, or the International Banking Act. In acting on such requests, the Board's Staff Director may take into account changed

circumstances and good faith efforts to fulfill the commitments or conditions, and shall consult with the directors of other interested divisions where appropriate. The Board's Staff Director may not take any action that would be inconsistent with or result in an evasion of the provisions of the Board's original action.

(3) *Notice of insufficient capital.* To issue, with the concurrence of the Board's General Counsel, a notice that a state member bank or bank holding company has insufficient capital and which directs the bank or company to file with its regional Reserve Bank a capital improvement plan under subpart D of the Board's Rules of Practice for Hearings (12 CFR part 263).

(4) *Obtaining possession or control of securities; extending time period.* To approve, under § 403.5(g) of the Treasury Department regulations (17 CFR part 403) implementing the Government Securities Act of 1986, as amended (Pub. L. 95-571), the application of a member bank, a state branch or agency of a foreign bank, a foreign bank, or a commercial lending company owned or controlled by a foreign bank, to extend for one or more limited periods commensurate with the circumstances the 30-day time period specified in 17 CFR 403.5(c)(1)(iii), provided the Staff Director is satisfied that the applicant is acting in good faith and that exceptional circumstances warrant such action.

(b) *Availability of Information—(1) FOIA requests.* To make available information of the Board of the nature and in the circumstances described in § 261.11 of the Board's Rules Regarding Availability of Information (12 CFR part 261).

(2) *FOIA; Availability of information.* To make available, under the Board's Rules Regarding Availability of Information (12 CFR part 261), reports and other information of the Board acquired pursuant to the Board's Regulations G, T, U, and X (12 CFR parts 207, 220, 221, 224) of the nature and in circumstances described in §§ 261.8(a) (2) and (3) of these rules.

(c) *Bank holding companies; Change in bank control; Mergers—(1) Bank holding company registration forms and annual reports.* To promulgate registration forms and annual reports and other forms for use in connection with the Bank Holding Company Act, after receiving clearance from the Office of Management and Budget (where necessary), under section 5 of the Bank Holding Company Act (12 U.S.C. 1844) and in accordance with 5 U.S.C. 553.

(2) *Emergency action.* To take actions the Reserve Bank could take under this part at § 265.11(d)(5) and (f) if immediate

or expeditious action is required to avert failure of a bank or savings association or because of an emergency pursuant to sections 3(a) and 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1842(a), 1843(c)(8)) on the Change in Bank Control Act (12 U.S.C. 1817(j)).

(3) *Waiver of notice.* To waive, dispense with, modify or excuse the failure to comply with the requirement for publication and solicitation of public comment regarding a notice filed under the Change in Bank Control Act (12 U.S.C. 1817(j)), with the concurrence of the Board's General Counsel, provided a written finding is made that such disclosure would seriously threaten the safety or soundness of a bank holding company or a bank.

(4) *Notices for addition or change of directors or officers.* Under section 914(a) of the Financial Institutions Reform, Recovery and Enforcement Act (12 U.S.C. 1831i) and subpart H of Regulation Y (12 CFR part 225), provided that no senior officer or director or proposed senior officer or director of the notificant is also a director of the Reserve Bank or a branch of the Reserve Bank:

(i) To determine the informational sufficiency of notices filed pursuant to § 225.71 of Regulation Y (12 CFR part 225); and

(ii) To waive the prior notice requirements of that section.

(5) *Acquisition approval under section 5(d)(3) of FDI Act.* To exercise, with the concurrence of the General Counsel, the functions described in § 265.11(c)(10) of this part (which refers to section 5(d)(3) of the FDI Act) in those cases in which the appropriate Federal Reserve Bank concludes that, because of unusual considerations, or for other good cause, it should not take action.

(d) *International banking—(1) Foreign bank reports.* To require submission of a report of condition respecting any foreign bank in which a member bank holds stock acquired under § 211.5(b) of Regulation K (12 CFR part 211) and section 25 of the Federal Reserve Act (12 U.S.C. 602).

(2) *Edge corporation reports.* To require submission and publication of reports by an Edge corporation under section 25(a) of the Federal Reserve Act (12 U.S.C. 625).

(3) *Capital stock of Edge corporation; articles of association; additional investments in Agreement corporation.* To approve under sections 25 and 25(a) as of the Federal Reserve Act (12 U.S.C. 601 & 604), increases and decreases in the capital stock of and amendments to the articles of association of an Edge corporation and additional investments

by a member bank in the stock of an Agreement corporation.

(4) *Waiver or suspension of prior notice; specified consent*—(i) To waive the 45 days' prior notice period for establishing a branch in an additional foreign country under § 211.3(a)(3) of Regulation K (12 CFR part 211).

(ii) To waive or suspend the 45 days' notice period for an investment that qualifies for the prior notice procedures in § 211.5(c)(2) of Regulation K (12 CFR part 211) or require that an investor file an application for the Board's specific consent.

(5) *Investment by foreign subsidiaries in U.S. affiliates*. To permit, after consultation with the Board's General Counsel, a foreign subsidiary of a bank holding company to invest in shares of a U.S. affiliate of the bank holding company where the investment is made as part of an internal corporate reorganization or an internal transfer of funds, subject to any conditions and terms the Staff Director and General Counsel deem appropriate and consistent with the purposes of Regulation K (12 CFR part 211).

(6) *Allocated transfer risk reserves*. To determine the need for establishing and the amount of any allocated transfer risk reserve against specific international assets, and notify the banking institutions of the determination and the amount of the reserve and whether the reserve may be reduced under subpart D of Regulation K (12 CFR part 211).

(7) *Underwriting and dealing authority outside the United States; hedging techniques*. To approve, under § 211.5(d)(14) of Regulation K (12 CFR part 211):

(i) Requests for authority to engage in the activities of underwriting, distributing, and dealing in shares outside the United States, provided that the Staff Director has determined that the internal procedures and operations of the organization and the effect of the proposed activities on capital adequacy are consistent with approval.

(ii) Hedging methods authorized under § 211.5(d)(14)(iii)(A) of Regulation K (12 CFR part 211).

(e) *Member banks*—(1) *Membership certification to FDIC*. To certify, under section 4(b) of the Federal Deposit Insurance Act (12 U.S.C. 1814(b)), to the Federal Deposit Insurance Corporation that the factors specified in section 6 of the Act (12 U.S.C. 1816) were considered with respect to the admission of a state-chartered bank to Federal Reserve membership.

(2) *Dollar exchange*. To permit any member bank to accept drafts or bill of exchange drawn upon it for the purpose

of furnishing dollar exchange under section 13(12) of the Federal Reserve Act (12 U.S.C. 373).

(3) *ERISA violations*. To provide to the Department of Labor written notification of possible significant violations of the Employee Retirement Income Security Act (ERISA) member banks, in accordance with section 3004(b) of ERISA and the Interagency Agreement adopted to implement its provisions.

(4) *Examiners*. To select or approve the appointment of Federal Reserve examiners, assistant examiners, and special examiners for the purpose of making examinations for or by the direction of the Board under 12 U.S.C. 325, 338, 625, 1844(c), and 3105(b)(1).

(5) *Capital stock reduction; branch applications; declaration of dividends; investment in bank premises*. To exercise the functions described in § 265.11(e) (5), (11), and (12) of this part (reductions in capital, issuance of subordinated debt, and early retirement of subordinated debt) when the conditions specified in those sections preclude a Reserve Bank's acting on a member bank request for action or the Reserve Bank considers that it should not take action, and to exercise the functions in §§ 265.11(e) (2), (3), and (4) of this part (approving branch applications, declaration of dividends, and investment in bank premises) in cases in which the appropriate Reserve Bank considers that it should not take action.

(6) *Security devices; Regulation P*. To exercise the functions described in § 265.11(a)(8) of this part in those cases in which the appropriate Reserve Bank concludes that it should not take action for good cause.

(f) *Securities*—(1) *Registration statements by member banks*. Under section 12(g) of the Securities Exchange Act (15 U.S.C. 78l(g)):

(i) To accelerate the effective date of a registration statement filed by a member bank with respect to its securities;

(ii) To accelerate termination of the registration of a security that is no longer held of record by 300 persons; and

(iii) To extend the time for filing a registration statement by a member bank.

(2) *Exemption from registration*. To issue notices with respect to application by a statement member bank for exemption from registration under section 12(h) of the Securities Exchange Act (15 U.S.C. 78h(h)).

(3) *Accelerating registration of security on national securities exchange*. To accelerate the effective date of an application by a state

member bank for registration of a security on a national securities exchange under section 12(d) of the Securities Exchange Act (15 U.S.C. 78l(d)).

(4) *Unlisted trading in security of state member bank*. To issue notices with respect to an application by a national securities exchange for unlisted trading privileges in a security of a state member bank under section 12(f) of the Securities Exchange Act (15 U.S.C. 78l(f)).

(5) *Transfer agent registration; acceleration; withdrawal or cancellation*. (i) To accelerate, under section 17A(c)(2) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78q-1), the effective date of a registration statement for transfer agent activities filed by a member bank or a subsidiary thereof, a bank holding company or a subsidiary thereof that is a bank as defined in section 3(a)(6) of the Act other than a bank specified in clause (i) or (iii) of section 3(a)(34)(B) of the Act (15 U.S.C. 78c).

(ii) To withdraw or cancel, under section 17A(c)(3)(C) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78q-1(c)(3)(C)), the transfer agent registration of a member bank or a subsidiary thereof, a bank holding company, or a subsidiary thereof that is a bank as defined in section 3(a)(6) of that Act other than a bank specified in clause (i) or (iii) of section 3(a)(34)(B) of the Act (15 U.S.C. 78c), that has filed a written notice of withdrawal with the Board or upon a finding that such transfer agent is no longer in existence or has ceased to do business as a transfer agent.

(6) *Proxy solicitation; financial statements*. (i) To permit the mailing of proxy and other soliciting materials by a state member bank before the expiration of the time prescribed therein under § 208.16 of Regulation H (12 CFR part 208).

(ii) To permit the omission of financial statements from reports by a state member bank, or to require other financial statements in addition to, or in substitution for, the statements required therein under § 208.16 of Regulation H (12 CFR part 208).

(7) *Municipal securities dealers*. Under section 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78w).

(i) To grant or deny requests for waiver of examination and waiting period requirements for municipal securities principals and representatives under Municipal Securities Rulemaking Board Rule G-3;

(ii) To grant or deny requests for a determination that a natural person or

municipal securities dealer subject to a statutory disqualification is qualified to act as a municipal securities representative or dealer under Municipal Securities Rulemaking Board Rule G-4;

(iii) To approve or disapprove clearing arrangements under Municipal Securities Rulemaking Board Rule G-8, in connection with the administration of these rules for municipal securities dealers for which the Board is the appropriate regulatory agency under section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)).

(8) *Making reports available to SEC.* To make available, upon request, to the Securities and Exchange Commission reports of examination of transfer agents, clearing agencies, and municipal securities dealers for which the Board is the appropriate regulatory agency for use by the Commission in exercising its supervisory responsibilities under the Act under section 17(c)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(c)(3)).

(9) *Issuing examination manuals, forms, and other materials.* To issue examination or inspection manuals, registration, report, agreement, and examination forms, guidelines, instructions, and other similar materials for use in administering sections 7, 8, 15B, and 17A(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78g, 78h, 78o-4, and 78q-1).

(10) *List of OTC margin stocks.* To approve issuance of the list of OTC margin stocks and foreign margin stocks and add, omit, or remove any stock in circumstances indicating that such change is necessary or appropriate in the public interest under § 207.6 of Regulation G (12 CFR part 207), § 220.17(d) of Regulation T (12 CFR part 220), or § 221.7(d) of Regulation U (12 CFR part 221).

§ 265.8 Functions delegated to the Staff Director of the Division of International Finance.

The Board's Staff Director of the Division of International Finance (or the Director's delegatee) is authorized:

(a) *Establishment of foreign accounts.* To approve the establishment of foreign accounts and the terms of any account-related agreements with the Federal Reserve Bank of New York under section 14(e) of the Federal Reserve Act (12 U.S.C. 358).

(b) [Reserved.]

§ 265.9 Functions delegated to the Director of Division of Consumer and Community Affairs.

The Director of the Board's Division of Consumer and Community Affairs (or the Director's delegatee) is authorized:

(a) *Issuing examination manuals, forms, and other materials.* To issue, pursuant to section 11(a) of the Federal Reserve Act (12 U.S.C. 248(a)); sections 108(b), 621(c), 704(b), 814(c), and 917(b) of the Consumer Credit Protection Act (15 U.S.C. 1607(b), 1681s(c), 1691c(b), and 1693o(b)); section 305(c) of the Home Mortgage Disclosure Act (12 U.S.C. 2804(c)); section 18(f)(3) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(3)); section 808(c) of the Civil Rights Act of 1968 (42 U.S.C. 3608(c)); and section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)), examination or inspection manuals; report, agreement, and examination forms; guidelines, instructions, and other similar materials, in consultation with the Legal Division where appropriate, for use in connection with:

(1) Sections 1-921 of the Consumer Credit Protection Act, excluding sections 201-500 (15 U.S.C. 1601-1693r);

(2) Sections 301-312 of the Home Mortgage Disclosure Act (12 U.S.C. 2801-2811);

(3) Section 18(f)(1)-(3) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(1)-(3));

(4) Section 805 of the Civil Rights Act of 1968 (42 U.S.C. 3605) and rules and regulations issued thereunder;

(5) Section 1364 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(a)), and sections 105(b) and 202(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b), 4106(b));

(6) Section 19(j) of the Federal Reserve Act (12 U.S.C. 371b); and

(7) Sections 801-806 of the Community Reinvestment Act (12 U.S.C. 2901-2905).

(b) *Consumer Advisory Council.* Pursuant to section 703(b) of the Consumer Credit Protection Act (15 U.S.C. 1691(b)), to call meetings of and consult with the Consumer Advisory Council established under that section, approve the agenda for such meetings, and accept any resignations from Consumer Advisory Council Members.

(c) *Determining inconsistencies between state and federal laws.* To determine whether a state law is inconsistent with the following federal acts and regulations:

(1) Sections 111, 171(a), and 186(a) of the Truth in Lending Act (15 U.S.C. 1610(a), 1666j(a), 1667e(a)); § 226.28 of Regulation Z (12 CFR part 226);

(2) Section 919 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), § 205.12 of Regulation E (12 CFR part 205);

(3) Section 705(f) of the Equal Credit Opportunity Act (15 U.S.C. 1691d(f) and § 202.11 of Regulation B (12 CFR part 202);

(4) Section 306(a) of the Home Mortgage Disclosure Act (12 U.S.C. 2805(a)) and Regulation C (12 CFR part 203).

§ 265.10 Functions delegated to Secretary of Federal Open Market Committee

The Secretary of the Federal Open Market Committee (or the Deputy Secretary in the Secretary's absence) is authorized:

(a) Records of policy actions. To approve for inclusion in the Board's Annual Report to Congress, records of policy actions of the Federal Open Market Committee.

(b) [Reserved.]

§ 265.11 Functions delegated to Federal Reserve Banks.

Each Federal Reserve Bank is authorized as to a member bank or other indicated organization for which the Reserve Bank is responsible for receiving applications or registration statements or to take other actions as indicated:

(a) *Procedure—(1) Member bank affiliate's reports.* To extend the time for good cause shown, within which an affiliate of a state member bank must file reports under section 9(17) of the Federal Reserve Act (12 U.S.C. 334).

(2) *Edge corporation's divestiture of stock.* To extend the time in which an Edge Act corporation must divest itself of stock acquired in satisfaction of a debt previously contracted under section 25(a)(9) of the Federal Reserve Act (12 U.S.C. 615).

(3) *Edge corporation's corporate existence.* To extend the period of corporate existence of an Edge corporation under section 25(a)(22) of the Federal Reserve Act (12 U.S.C. 628).

(4) *Bank holding company registration statement.* To extend the time within which a bank holding company must file a registration statement under section 5(a) of the Bank Holding Company Act (12 U.S.C. 1844(a)).

(5) *Bank holding company divestiture of nonbanking interests.* To extend the time within which a bank holding company must divest itself of interests in nonbanking organizations under section 4(a) of the Bank Holding Company Act (12 U.S.C. 1843(a)).

(6) *Bank holding company divestiture of dpc interests.* To extend the time within which a bank holding company or any of its subsidiaries must divest

itself of interests acquired in satisfaction of a debt previously contracted:

(i) Under section 4(c)(2) of the Bank Holding Company Act (12 U.S.C. 1843(c)(2)) or § 225.22(c)(1) of Regulation Y (12 CFR part 225); or

(ii) Under sections 2(a)(5)(D) and 3(a) of the Bank Holding Company Act (12 U.S.C. 1841(a)(5)(D) and 1842(a)).

(7) *Member bank's surrender of Reserve Bank stock upon withdrawal from membership.* To extend the time within which a member bank that has given notice of intention to withdraw from membership must surrender its Federal Reserve Bank stock and its certificate of membership under Regulation H (12 CFR 208.11(c)).

(8) *Members bank's reports of condition.* To extend the time for publication of reports of condition under Regulation H (12 CFR part 208) for good cause shown.

(9) *Bank holding company's annual reports.* To grant to a bank holding company a 90-day extension of time in which to file an annual report, and for good cause shown grant an additional extension of time not to exceed 90 days under section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)).

(10) *Regulation K—Divestiture of foreign portfolio investment, joint venture, or subsidiary acquired through debt previously contracted.* To extend the time within which an investor must divest itself of interests in a foreign portfolio investment, joint venture, or subsidiary acquired in satisfaction of a debt previously contracted under Regulation K (12 CFR 211.5(e)).

(11) *Bank holding company's acquisition of shares, opening new bank, consummating merger.* To extend the time within which a bank holding company may acquire shares, open a new bank to be acquired, or consummate a merger in connection with an application approved by the Board, if no material change relevant to the proposal has occurred since its approval.

(12) *Member bank's establishing domestic or foreign branch; Edge or agreement corporation's establishing branch or agency.* To extend the times within which:

(i) A member bank may establish a domestic branch;

(ii) A member bank may establish a foreign branch; or

(iii) An Edge or agreement corporation may establish a branch or agency, if no material change has occurred in the bank's (or corporation's) general condition since the application was approved.

(13) *Purchase of stock by Edge or Agreement Corporation, member bank,*

or bank holding company. To extend the time within which an Edge or Agreement corporation, member bank, or a bank holding company may accomplish a purchase of stock if no material change has occurred in the general condition of the corporation, the member bank, or bank holding company since such authorization under sections 25 or 25(a) of the Federal Reserve Act or section 4(c)(13) of the Bank Holding Company Act (12 U.S.C. 615, 628, 1843.)

(14) *Federal Reserve Membership.* To extend the time within which Federal Reserve membership must be accomplished, if no material change has occurred in the bank's general condition since the application was approved.

(15) *Enforcement actions; written agreements; cease and desist orders.* With the prior approval of both the Board's Staff Director of the Division of Banking Supervision and Regulation and the Board's General Counsel:

(i) To enter into a written agreement with a bank holding company or any nonbanking subsidiary thereof, with a state member bank, or with any other person or entity subject to the Board's supervisory jurisdiction under 12 U.S.C. 1818(b) concerning the prevention or correction of an unsafe or unsound practice in conducting the business of the bank holding company, nonbanking subsidiary, or state member bank or other entity, or concerning the correction or prevention of any violation of law, rule, or regulation, or any condition imposed in writing by the Board in connection with the granting of any application or other request by the bank or company or any other appropriate matter;

(ii) To stay, modify, terminate, or suspend an agreement entered into pursuant to this paragraph;

(iii) To stay, modify, terminate, or suspend an outstanding cease and desist order that has become final pursuant to 12 U.S.C. 1818 (b) and (k). Any agreement authorized under this paragraph may, by its terms, be enforceable to the same extent and in the same manner as an effective and outstanding cease and desist order that has become final pursuant to 12 U.S.C. 1818 (b) and (k).

(16) *Appointment of assistant Federal Reserve agents.* To approve the appointment of assistant Federal Reserve agents (including representatives or alternate representatives of such agents) under section 4, paragraph 21 of the Federal Reserve Act (12 U.S.C. 306).

(b) *Availability of Information—(1) Availability of Information; Board records.* To make available information of the Board of the nature and in the

circumstances described in the Board's Rules Regarding Availability of Information (12 CFR 261.11).

(2) *[Reserved.]*

(c) *Bank holding companies; Change in bank control; Mergers—(1) Require reports under oath.* To require reports under oath to determine whether a company is complying with section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)).

(2) *Acquisition of going concern—authorization of consummation; early consummation.* To notify a bank holding company that, because the circumstances surrounding the application to acquire a going concern indicate that additional information is required or that the acquisition should be considered by the Board, the acquisition should not be consummated until specifically authorized by the Reserve Bank or by the Board.

(ii) To permit a bank holding company to make a proposed acquisition of a going concern before the expiration of the 30-day period referred to in Regulation Y (12 CFR 225.23(a)(2)) because exigent circumstances justify consummation of the acquisition at an earlier time.

(3) *Petition for review of decision that adverse comments are not substantive; permit proposed de novo activities; authorization of consummation; early consummation.* Under § 225.4(b)(1) of Regulation Y (12 CFR part 225) and subject to § 265.3 of this part, if a person submitting adverse comments that the Reserve Bank had decided are not substantive files a petition for review by the Board of that decision:

(i) To permit a bank holding company to engage *de novo* in activities specified in § 225.25 of Regulation Y (12 CFR part 225), or retain shares in a company established *de novo* and engaging in such activities, if the Reserve Bank's evaluation of the considerations specified in section 4(c)(6) of the Bank Holding Company Act leads it to conclude that the proposal can reasonably be expected to produce benefits to the public.

(ii) To notify a bank holding company that the proposal should not be consummated until specifically authorized by the Reserve Bank or by the Board or that the proposal should be processed in accordance with the procedures in § 225.23(a)(2) of Regulation Y (12 CFR part 225).

(iii) To permit a bank holding company to consummate the proposal before the expiration of the 45-day period referred to in § 225.23(a)(1) of Regulation Y because exigent circumstances justify consummation at

an earlier time under § 225.4(b)(1) of Regulation Y (12 CFR part 225).

(4) *Permit or stay of modification or location of activities.* To permit or stay a proposed *de novo* modification or relocation of activities engaged in by a bank holding company on the same basis as *de novo* proposals under § 265.11(d)(3) of this part.

(5) *Notices under change in Bank Control Act.* With respect to the bank holding company or a state member bank:

(i) To determine the informational sufficiency of notices and reports filed under the Change in Bank Control Act;

(ii) To extend periods for consideration of notices;

(iii) To determine whether a person who is or will be subject to a presumption described in § 225.41(b) of Regulation Y (12 CFR part 225) should file a notice regarding a proposed transaction; and

(iv) To issue a notice of intention not to disapprove a proposed change in control if all the following conditions are met:

(A) No member of the Board has indicated an objection prior to the Reserve Bank's action;

(B) No senior officer or director of an involved party is also a director of a Federal Reserve Bank or branch;

(C) All relevant departments of the Reserve Bank concur;

(D) If the proposal involves shares of a state member bank or a bank holding company controlling a state member bank, the appropriate bank supervisory authorities have indicated that they have no objection to the proposal, or no objection has been received from them within the time allowed by the act; and

(E) No significant policy issue under the change in Bank Control Act, 12 U.S.C. 1817(j) or § 225.41 of Regulation Y (12 CFR part 225) is raised by the proposal as to which the Board has not expressed its view.

(6) *Failure to comply with publication requirement under change in Bank Control Act.* To waive, dispense with, modify, or excuse the failure to comply with the requirement for publication and solicitation of public comment regarding a notice filed under the Change in Bank Control Act, with the concurrence of the Board's Staff Director of the Division of Banking Supervision and Regulation and the Board's General Counsel, provided that a written finding is made that such disclosure or solicitation would seriously threaten the safety or soundness of a bank holding company or bank under the Change in Bank Control Act (12 U.S.C. 1817(j)(2)).

(7) *Grandfathered nonbanking activities.* To determine under section

4(a)(2) of the Bank Holding Company Act (12 U.S.C. 1843(a)(2)) that termination of grandfathered nonbanking activities of a particular bank holding company is not warranted, provided the Reserve Bank is satisfied all of the following conditions are met:

(i) The company or its successor is "a company covered in 1970";

(ii) The nonbanking activities for which indefinite grandfather privileges are being sought do not present any significant unsettled policy issues; and

(iii) The bank holding company was lawfully engaged in such activities as of June 30, 1968 and has been engaged in such activities continuously thereafter.

(8) *Opening of additional nonbanking offices.* To approve applications by a bank holding company under sections 4(c)(8) and 5(b) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8), 1844(b)) and § 225.23(b) of Regulation Y (12 CFR part 225) to open additional offices to engage in nonbanking activities for which the bank holding company previously received approval pursuant to Board order, unless one of the conditions specified in § 265.11(f) (1), (2), (3), or (4), of this part is present.

(9) *Notices for addition or change of directors or officers.* Under section 914(a) of the Financial Institutions Reform, Recovery and Enforcement Act (12 U.S.C. 1831i) and subpart H of Regulation Y (12 CFR part 225), provided that no senior officer or director or proposed senior officer or director of the notificant is also a director of the Reserve Bank or a branch of the Reserve Bank:

(i) To determine the informational sufficiency of notices filed pursuant to § 225.71 of Regulation Y; and

(ii) To waive the prior notice requirements of that section.

(10) *Acquisition approvals under section 5(d)(3) of the FDI Act.* To approve, under section 5(d)(3)(E) of the Federal Deposit Insurance Act, requests by a bank holding company to engage in any transaction described in section 5(d)(3)(A) of that Act.

(11) *Applications requiring Board approval; competitive factors reports for bank mergers.* To approve applications requiring prior approval of the Board and furnish to the Comptroller of the Currency and the Federal Deposit Insurance Corporation reports on competitive factors involved in a bank merger required to be approved by one of those agencies, unless one or more of the following conditions is present.

(i) A member of the Board has indicated an objection prior to the Reserve Bank's action; or

(ii) The Board has indicated that such delegated authority shall not be

exercised by the Reserve Bank in whole or in part; or

(iii) A written substantive objection to the application has been properly made; or

(iv) The application raises a significant policy issue or legal question on which the Board has not established its position; or

(v) With respect to bank holding company formations, bank acquisitions or mergers, the proposed transaction involves two or more banking organizations:

(A) That rank among a state's five largest banking organizations, or among the 50 largest banking organizations, in the United States (as measured by total domestic deposits within the relevant area); or

(B) That, upon consummation of the proposal, would control over 30 percent of total deposits in banking offices in the relevant geographic market, or would result in an increase of at least 200 points in the Herfindahl-Hirschman Index (HHI) in a highly concentrated market (a market with a postmerger HHI of at least 1800); or

(C) Where divestitures designed to address any substantial anticompetitive effects are not effected on or before consummation of the proposed transaction; or

(vi) With respect to nonbank acquisitions:

(A) The nonbanking activities involved do not clearly fall within activities that the Board has designated as permissible for bank holding companies under § 225.25(b) of Regulation Y; or

(B) The proposal would involve the acquisition by a banking organization that has total domestic banking assets of \$1 billion or more of a nonbanking organization that appears to have a significant presence in a permissible nonbanking activity. (FDI Act, 18(c) (12 U.S.C. 1828(c)); BHC Act, 3(a), 4(c)(8) (12 U.S.C. 1842(a), 1843(c)(8)); Bank Service Corp. Act, 5(a), 5(b), 7(d) (12 U.S.C. 1865(a), (b), 1867(d)); Regulation Y, § 225.14, 225.23 (12 CFR part 225)).

(d) *International banking—(1) Application to establish Edge Corporation.* To approve the application by a U.S. banking organization to establish an Edge corporation under section 25 of the Federal Reserve Act (12 U.S.C. 611) and the Board's Regulation K (12 CFR part 211) if all of the following criteria are met:

(i) The U.S. banking organization meets the capital adequacy guidelines and is otherwise in satisfactory condition;

(ii) The proposed Edge corporation will be a wholly-owned subsidiary of a single banking organization; and

(iii) No other significant policy issue is raised on which the Board has not previously expressed its view.

(2) *Issuance of permit to Edge corporation to commence business.* To issue to an Edge corporation under section 25(a) of the Federal Reserve Act (12 U.S.C. 612) and Regulation K, § 211.4(a) (12 CFR part 211) a final permit to commence business and to approve amendments to the articles of association of any Edge corporation to reflect the following:

(i) Any increase in capital stock where all additional shares are to be acquired by existing shareholders;

(ii) Any change in the location of the home office in the city where the Edge corporation is presently located;

(iii) Any change in the number of members of the board of directors;

(iv) Any change in the name; and

(v) Deletion of the requirements that all directors and shareholders must be U.S. citizens.

(3) *Edge corporation establishing branch abroad.* To approve, under § 211.3(a) Regulation K (12 CFR part 211), an Edge corporation application to establish a branch abroad, provided that no senior officer or director of the involved parties is also a director of a Reserve Bank or branch and that no significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(4) *Member bank establishing foreign branch.* To approve under § 211.3(a) of Regulation K (12 CFR part 211) a member bank's establishing, directly or indirectly, a foreign branch where the application is not one for a full-service branch in a foreign country, provided that no senior officer or director of the involved parties is also a director of a Reserve Bank or branch and that no significant policy issue is raised by the proposal as to which the Board has not expressed its view.

(5) *Agreement with foreign bank concerning deposits of out-of-home-state branch.* To enter into an agreement or undertaking with a foreign bank that it shall receive only such deposits at its out-of-home-state branch as would be permissible for an Edge corporation under section 5 of the International Banking Act (12 U.S.C. 3103).

(6) *Waiver of 30-day prior notification period.* To waive the 30-day prior notification period with respect to a foreign bank's change of home state under § 211.22(c)(1) of Regulation K (12 CFR part 211).

(7) *Granting specific consent.* To grant prior specific consent to an investor for

an investment in its first subsidiary or its first joint venture, where such investment does not exceed the general consent limitations under 211.5(c) of Regulation K (12 CFR part 211).

(8) *Requiring application for specific consent.* To suspend the notification period or require that an investor file an application for the Board's specific consent under § 211.5(c)(2) of Regulation K (12 CFR part 211).

(9) *Investment in export trading company.* To issue a notice of intention not to disapprove a proposed investment in an export trading company if all the following criteria are met:

(i) The proposed export trading company will be a wholly-owned subsidiary of a single investor, or ownership will be shared with an individual or individuals involved in the operation of the export trading company;

(ii) A bank holding company investor and its lead bank meet the minimum capital adequacy guidelines of the Board, the Comptroller of the Currency, or the Federal Deposit Insurance Corporation or have enacted capital enhancement plans that have been determined by the appropriate supervisory authority to be acceptable.

(iii) The proposed activities of the export trading company do not include product research or design, product modification, or activities not specifically covered by the list of services contained in 4(c)(14)(F)(ii) of the Bank Holding Company Act (12 U.S.C. 1843(c)(14)(F)(ii));

(iv) No other significant policy issue is raised on which the Board has not previously expressed its view under section 4(c)(14) of the Bank Holding Company Act (12 U.S.C. 1843(c)(14)) and Regulation K (12 CFR 211.31-211.34).

(10) *Futures commission merchant activities.* To approve, under § 211.5(d)(17) of Regulation K (12 CFR part 211), applications to engage in futures commission merchant activities on an exchange that requires members to guarantee or otherwise contract to cover losses suffered by the other members, provided that the Board has previously approved the exchange and the application is on the same terms and conditions on which the Board based its approval of the exchange.

(e) *Member banks—(1) Approval of membership applications.* To approve applications for membership in the Federal Reserve System under section 9 of the Federal Reserve Act (12 U.S.C. 321 et seq.) and Regulation H (12 CFR part 208) if the Reserve Bank is satisfied with respect to each of the following criteria:

(i) The financial history and condition of the applying bank and the general character of its management;

(ii) The adequacy of its capital structure in relation to the character and condition of its assets and to its existing and prospective deposit liabilities and other corporate responsibilities and its future earnings prospects;

(iii) The convenience and needs of the community to be served by the bank; and

(iv) Whether its corporate powers are consistent with the purposes of the Federal Reserve Act and the Federal Deposit Insurance Act.

(2) *Waiver of notice of intention to withdraw from membership.* To approve or deny applications by state banks for waiver of the required six months' notice of intention to withdraw from Federal Reserve membership under section 9(10) of the Federal Reserve Act (12 U.S.C. 328).

(3) *Approval of branch applications.* To approve a state member bank's establishment of a domestic branch under section 9 of the Federal Reserve Act (12 U.S.C. 321 et seq.) and the Regulation H (12 CFR part 208) if the Reserve Bank is satisfied that approval is warranted after considering:

(i) The bank's capitalization in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management;

(ii) The ability of the bank's management to cope successfully with existing or foreseeable problems, and to staff the proposed branch without any significant deterioration in the overall management situation;

(iii) The convenience and needs of the community;

(iv) The competitive situation (either actual or potential);

(v) The prospects for profitable operations of the proposed branch within a reasonable time, and the ability of the bank to sustain the operational losses of the proposed branch until it becomes profitable; and

(vi) The reasonableness of the bank's investment in bank premises after the expenditure for the proposed branch.

(4) *Declaration of dividends in excess of net profits.* To permit a state member bank under section 9(6) of the Federal Reserve Act (12 U.S.C. 324 and 60) to declare dividends in excess of net profits for the calendar year combined with the retained net profits of the preceding two years, less any required transfers to surplus or a fund for the

retirement of any preferred stock, if the Reserve Bank is satisfied that approval is warranted after giving consideration to:

(i) The banks capitalization in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management; and

(ii) The bank's capitalization after payment of the proposed dividends.

(5) *Reduction of capital stock.* To permit a state member bank under section 9(11) of the Federal Reserve Act (12 U.S.C. 329) to reduce its capital stock if its capitalization thereafter will be:

(i) In conformity with the requirements of federal law; and

(ii) Adequate in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management.

(6) *Acceptance of drafts and bills of exchange.* To permit a member bank or a federal or state branch or agency of a foreign bank that is subject to reserve requirements under section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) to accept drafts or bills of exchange under section 13(7) of the Federal Reserve Act (12 U.S.C. 372) in an aggregate amount at any one time up to 200 percent of its paid-up and unimpaired capital stock and surplus, if the Reserve Bank is satisfied that such permission is warranted after giving consideration to the institution's capitalization in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior-quality assets, all considered in relation to the strength of its management.

(7) *Investment in bank premises in excess of capital stock.* To permit a state member bank to invest in bank premises under section 24A of the Federal Reserve Act (12 U.S.C. 371a) in an amount in excess of its capital stock, if the Reserve Bank is satisfied that approval is warranted after giving consideration to the bank's capitalization in relation to the character and condition of its assets and to its deposit liabilities and other corporate responsibilities, including the volume of its risk assets and of its marginal and inferior quality assets, all considered in relation to the strength of its management.

(8) *Security devices.* To determine whether security devices and procedures of state member banks are deficient in meeting the requirements of Regulation P (12 CFR part 216) and whether such requirements should be varied in the circumstances of a particular banking office, and whether to require corrective action.

(9) *Classifying member banks for election of directors.* To classify member banks for the purposes of electing Federal Reserve Bank class A and class B directors under section 4(16) of the Federal Reserve Act (12 U.S.C. 304), giving consideration to:

(i) The statutory requirement that each of the three groups shall consist as nearly as may be of banks of similar capitalization; and

(ii) The desirability that every member bank have the opportunity to vote for a class A or a class B director at least once every three years.

(10) *Waiver of penalty for deficient reserves.* To waive the penalty for deficient reserves by a member bank if, after a review of all the circumstances relating to the deficiency, the Reserve Bank concludes that waiver is warranted, except that in no case may a penalty be waived if the deficiency in reserves arises out of the bank's gross negligence or conduct inconsistent with the principles and purposes of reserve requirements.

(11) *Approval of subordinated debt.* To approve a state member bank's proposed subordinated debt issue as an addition to the bank's capital structure if all of the following conditions are met:

(i) The terms of the proposed debt issue satisfy the requirements of § 204.2(a)(1)(vii)(C) of Regulation D (12 CFR part 204) and the Board's guideline criteria for approval of subordinated debt as an addition to capital;

(ii) The appropriate Reserve Bank recommends approval; and

(iii) No significant policy issue is raised by the proposed issue as to which the Board has not expressed its view.

(12) *Retirement of subordinated debt.* To approve the retirement prior to maturity of capital notes described in § 204.2(a)(1)(vii)(C) of Regulation D (12 CFR part 204) and issued by a state member bank, provided the Reserve Bank is satisfied that the capital position of the bank will be adequate after the proposed redemption.

(f) *Securities—(1) Application for termination of registration.* To approve applications for termination of registration by persons who are registered pursuant to §§ 207.3(a) (1) and (2) of Regulation G (12 CFR part 207).

(2) *Agreements from nonmember banks; extensions of credit.* To accept

agreements concerning extensions of credit to finance securities transactions on behalf of the Board from nonmember banks in the form prescribed by the Board under section 8(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78(a)).

(g) *Management interlocks.—(1) Change in circumstances requiring termination of management interlocks; Regulation L.* To grant time for compliance with § 121.6 of Regulation L (12 CFR part 212) of up to an aggregate of 15 months from the date on which the change in circumstances as specified in that section occurs when the additional time appears to be appropriate to avoid undue disruption to the depository organizations involved in the management interlocks.

(2) *Depository Institutions Management Interlocks Act.* After consultation with the General Counsel of the Board, to decide not to disapprove notices to establish director interlocks with diversified savings and loan holding companies. (12 U.S.C. 3204(8)).

By order of the Board of Governors of the Federal Reserve System, May 17, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-12241 Filed 6-4-91; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 1497-91]

Office of International Affairs; Organization, Functions, and Authority Delegations

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order will amend part 0 of title 28 of the Code of Federal Regulations to reflect the establishment of the Office of International Affairs at the Department of Justice. This new Office has been created to increase efficiency within the Department. The order will provide the public with an accessible list of the duties of the Director of International Affairs. It is being added to the Code of Federal Regulations in order to reflect accurately the agency's internal management structure.

EFFECTIVE DATE: May 23, 1991.

FOR FURTHER INFORMATION CONTACT: Robert S. Ross, Jr., Assistant to the Attorney General, U.S. Department of

Justice, Washington, DC 20530,
Telephone: (202) 514-8672.

SUPPLEMENTARY INFORMATION: This order pertains to a matter of internal Department management. It does not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). It is not a major rule within the meaning of or subject to Executive Order No. 12291.

List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Whistleblowing.

Accordingly, by virtue of the authority vested in me as Attorney General by 5 U.S.C. 301 and 28 U.S.C. 509, 510, part 0 of title 28 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 0 is revised to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515-519.

§ 0.1 [Amended]

2. Part 0, subpart A, § 0.1 is amended by adding a new entry at the end of the list under "Offices" to read as follows:

§ 0.1 Organizational Units.

* * * * *

Offices

* * * * *

Office of International Affairs.

* * * * *

3. Part 0 is amended by redesignating subparts E-1 (consisting of § 0.27) and E-2 (consisting of § 0.28) as subparts E-2 and E-3, and by adding a new subpart E-1 (consisting of § 0.26) to read as follows:

Subpart E-1—Office of International Affairs

§ 0.26 Organization.

There shall be within the Office of the Attorney General an Office of International Affairs.

(a) *Director.* The Office of International Affairs shall be headed by a Director of International Affairs, appointed by the Attorney General.

(b) *Functions.* The Director of International Affairs shall undertake the following duties:

(1) Serve as an advisor to the Attorney General on all international matters affecting the Department of Justice.

(2) Coordinate all visits by foreign officials and visits by Department of Justice officials to foreign countries.

(3) Coordinate the receipt of all requests for training and technical assistance from foreign nations.

(4) Coordinate all international legal activities undertaken by Department of Justice components.

(5) Coordinate efforts to promote international respect for the rule of law and internationally recognized human rights.

(6) Foster international cooperation in the criminal, civil, administrative and regulatory law areas.

(7) Provide general coordination and policy guidance within the Department of Justice regarding activities carried out abroad pursuant to Administration of Justice Assistance programs.

(8) Maintain a liaison with the Department of State and with other appropriate federal, state and local agencies and non-governmental institutions with regard to policy relating to international law enforcement and international administration of justice.

(9) Perform such other duties and functions as may be specially assigned by the Attorney General.

(c) *Relationship to other Departmental units.* In carrying out the responsibilities under this subpart, the Director shall have the authority to call upon the relevant Departmental units for personnel and other assistance, as approved by the Attorney General or his designee.

(d) *Redelegation of authority.* The Director is authorized to redelegate to any of his subordinates any of the authority, functions or duties vested in the Director by this subpart.

Dated: May 23, 1991.

Dick Thornburgh,
Attorney General.

[FR Doc. 91-12807 Filed 6-4-91; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 286b

[OSD Administrative Instruction No. 81]

Privacy Program

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Final rule.

SUMMARY: The Office of the Secretary of Defense is publishing a final rule for one exempt system of records subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) The system of records is identified as DODDS 25.0 entitled "DoDDS Internal Review Office Project File."

EFFECTIVE DATE: June 5, 1991.

SUPPLEMENTARY INFORMATION: On April 23, 1991, at 56 FR 18556 of the Federal Register the Office of the Secretary of Defense published a new exemption rule for a new system of records. No comments were received, therefore, the Office of the Secretary of Defense is adopting the exemption rule as follows:

List of Subjects in 32 CFR Part 286b

Privacy.

Accordingly, the Department of Defense is adding an exemption rule to 32 CFR part 286b as follows:

PART 286b—PRIVACY PROGRAM

1. The authority citation for 32 CFR part 286b continues to read as follows:

Authority: Privacy Act of 1974, Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a)

2. Section 286b.7(c) is amended by adding paragraph designation (6) before SYSID-DMRA&L 02.0, SYSNAME-Educator Application Files, revising newly designated (c)(6), introductory text, and adding a new paragraph (c)(7) as follows:

§ 286b.7 Procedures for exemption.

* * * * *

(c) * * *

(6) *System Identification and Name—* DODDS 02.0, Educator Application Files.

* * * * *

(7) *System Identification and Name—* DODDS 25.0, DoDDS Internal Review Office Project File.

*Exemption—*Portions of this system that fall within the provisions of 5 U.S.C. 552a(k)(2) are exempt from the following subsections (c)(3), (d), (e)(4)(G), (e)(4)(H), and (f).

*Authority—*5 U.S.C. 552a(k)(2).

*Reasons—*From subsection (c)(3) because the release of a disclosure accounting would inform a subject that he or she is under investigation. This information would provide considerable advantage to the subject in providing him or her with knowledge concerning the nature of the investigation and the coordinated investigative efforts and techniques employed by cooperating agencies. This would greatly impede the IRO's criminal law enforcement effectiveness.

From subsection (e)(4)(G) and (e)(4)(H), because notification would alert a subject to the fact that an investigation of that individual is taking place, and might weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy.

From subsection (d) and (f), because access to records and agency rules for access and amendment of records

unfairly impede the DoDDS IRO criminal investigation activities. Requiring DoDDS IRO to confirm or deny the existence of a record pertaining to a requesting individual may in itself provide an answer to the individual relating to an on-going criminal investigation. The conduct of a successful investigation leading to the indictment of a criminal offender would be jeopardized by agency rules requiring verification of record disclosure of the record to the subject, and record amendment procedures, as normally apply under the requirements of 5 U.S.C. 533(b)(1), (2), and (3), (c) and (e).

Dated: May 30, 1991.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-13155 Filed 6-4-91; 8:45 am]

BILLING CODE 3810-01

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1 91-028]

Safety Zone Regulations: East River, New York, NY

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in the East River, New York. This zone is needed to protect the maritime community from the possible dangers and hazards to navigation associated with a fireworks display. Entry into this zone, or movement within this zone, is prohibited unless authorized by the Captain of the Port, New York.

EFFECTIVE DATES: This regulation becomes effective at 8:30 p.m. local time 4 July 1991. It terminates at 11 p.m. local time 4 July 1991.

FOR FURTHER INFORMATION CONTACT: MST1 S. Whinham of Captain of the Port, New York (212) 668-7934.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to any potential hazards.

Drafting Information

The drafters of this regulation are LTJG C.W. Jennings, project officer, Captain of the Port New York, and LT R.E. Korroch, project attorney, First Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation result from the possible dangers and hazards to navigation associated with a fireworks display. This regulation is effective from 8:30 p.m., 4 July 1991 to 11 p.m. 4 July 1991. This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security Measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 33 CFR 160.5.

2. A new § 165.T1028 is added to read as follows:

§ 165.T1028 Safety Zone: East River, New York, NY.

(a) *Location.* The following area has been declared a Safety Zone: That portion of the waters of the East River north of a line drawn between 14th Street Manhattan to a point due east on the Brooklyn Shore, south of a line drawn between Lawrence Point and Stoney Point, and south of the Harlem River Foot Bridge.

(b) *Effective date.* This regulation becomes effective at 8:30 p.m. local time 4 July 1991. It terminates at 11 p.m. local time 4 July 1991.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part entry into or movement within this zone is prohibited unless authorized by the Captain of the Port.

Dated: May 21, 1991.

R. M. Larrabee,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 91-13183 Filed 6-4-91; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD1 91-041]

Safety Zone Regulations: Upper Bay, New York and New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Upper Bay, New York and New Jersey. This zone is needed to protect the maritime community from the possible dangers and hazards to navigation associated with a fireworks display. Entry into this zone, or movement within this zone, is prohibited unless authorized by the Captain of the Port, New York.

EFFECTIVE DATES: This regulation becomes effective at 8:30 p.m. local time 7 June 1991. It terminates at 10 p.m. local time 7 June 1991.

FOR FURTHER INFORMATION CONTACT: MST1 S. Whinham of Captain of the Port, New York (212) 668-7934.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to any potential hazards.

Drafting Information

The drafters of this regulation are LTJG C. W. Jennings, project officer, Captain of the Port New York, and LT R. E. Korroch, project attorney, First Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation result from the possible dangers and hazards to navigation associated with a fireworks display. This regulation is effective from 8:30 p.m., 7 June 1991 to 10 p.m. 7 June 1991. This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security Measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 33 CFR 160.5.

2. A new § 165.T1041 is added to read as follows:

§ 165.T1041 Safety Zone: Upper Bay, New York and New Jersey.

(a) *Location.* The following area has been declared a Safety Zone: All waters within a 300 radius of the fireworks barge located in Federal Anchorage 20C east of Liberty Island.

(b) *Effective date.* This regulation becomes effective at 8:30 p.m. local time 7 June 1991. It terminates at 10 p.m. local time 7 June 1991.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part entry into or movement within this zone is prohibited unless authorized by the Captain of the Port.

Dated: 01 May 1991.

R.M. Larrabee,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 91-13184 Filed 6-4-91; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD1 91-043]

Safety Zone Regulations: Upper Bay, New York and New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Upper Bay, New York and New Jersey. This zone is needed to protect the maritime community from the possible dangers and hazards to navigation associated with a fireworks display. Entry into this zone, or movement within this zone, is prohibited unless authorized by the Captain of the Port, New York.

EFFECTIVE DATES: This regulation becomes effective at 8:30 p.m. local time 28 June 1991. It terminates at 10:30 p.m. local time 28 June 1991.

FOR FURTHER INFORMATION CONTACT: MST1 S. Whinham of Captain of the Port, New York (212) 668-7934.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to

public interest since immediate action is needed to respond to any potential hazards.

Drafting Information.

The drafters of this regulation are LTJG C.W. Jennings, project officer, Captain of the Port, New York, and LT R. E. Korroch, project attorney, First Coast Guard District Legal Office.

Discussion of Regulation.

The circumstances requiring this regulation result from the possible dangers and hazards to navigation associated with a fireworks display. This regulation is effective from 8:30 p.m., 28 June 1991 to 10:30 p.m. 28 June 1991. This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security Measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 33 CFR 160.5.

2. A new § 165.T1043 is added to read as follows:

§ 165.T1043 Safety Zone: Upper Bay, New York and New Jersey.

(a) *Location.* The following area has been declared a Safety Zone: All waters within a 300 yard radius of the fireworks barge located in Federal Anchorage 20C east of Liberty Island.

(b) *Effective date.* This regulation becomes effective at 8:30 p.m. local time 28 June 1991. It terminates at 10:30 p.m. local time 28 June 1991.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part entry into or movement within this zone is prohibited unless authorized by the Captain of the Port.

Dated: 01 May 1991.

R. M. Larrabee,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 91-13185 Filed 6-4-91; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD1-91-044]

Safety Zone Regulations: New York Harbor, New York, NY

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone to protect the maritime community from the possible dangers and hazards to navigation associated with a parade of vessels traveling northward through New York Harbor in close proximity to each other. Entry into or movement within this zone, this Safety Zone, is prohibited unless authorized by the Captain of the Port, New York.

EFFECTIVE DATES: This zone becomes effective on 06 June 1991 at 6 a.m. It terminates on 06 June 1991 at 8 p.m.

FOR FURTHER INFORMATION CONTACT: MST1 S. T. Whinham of Captain of the Port, New York (212) 668-7934.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to any potential hazards to vessels operating in the vicinity of the "Parade of Ships".

Drafting Information

The drafters of this regulation are LTJG C. W. Jennings, project officer for the Captain of the Port, LT R. E. Korroch, project attorney, First Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation result from the desire to protect the maritime public from possible dangers and hazards to navigation associated with a parade of large deep draft vessels traveling through New York Harbor in close proximity. This action is needed due to the unique nature of this event, the participants, and the duration of the event.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security Measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5.

2. A new § 165.T1044 is added to read as follows:

§ 165.T1044 Safety Zone: New York Harbor, New York, NY.

(a) *Definition.* "Parade of Ships" means those Coast Guard, Navy and certain commercial vessels authorized by the Captain of the Port to participate in the parade.

(b) *Location.* That portion of the waters of the Lower Bay north of a line drawn from Norton's Point due west to the Staten Island shore and south of the Verrazano Bridge; that portion of the waters of the Upper Bay including The Narrows and the Anchorage Channel; the waters of the Hudson River south of the George Washington Bridge. In all situations, vessels not authorized to participate in the "Parade of Ships" must stay at least 200 yards from the parade participants.

(c) *Effective dates.* This zone will be effective on 06 June 1991 at 6 a.m. local time. It terminates on 06 June 1991 at 8 p.m. local time, or when vessels are safely moored whichever is sooner.

(d) *Regulation.* In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port, New York.

Dated: May 20, 1991.

R. M. Larrabee

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 91-13186 Filed 6-4-91; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[CGD1 91-054]

Safety Zone Regulations: Upper Bay and East River, New York, NY

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Upper Bay and East River, New York. This zone is needed to protect the maritime community from the possible dangers

and hazards to navigation associated with a fireworks display. Entry into this zone, or movement within this zone, is prohibited unless authorized by the Captain of the Port, New York.

EFFECTIVE DATES: This regulation becomes effective at 8:30 p.m. local time 3 July 1991. It terminates at 10:30 p.m. local time 3 July 1991.

FOR FURTHER INFORMATION CONTACT: MST1 S. Whinham of Captain of the Port, New York (212) 668-7934.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to any potential hazards.

Drafting Information

The drafters of this regulation are LTJG C.W. Jennings, project officer, Captain of the Port New York, and LT R.E. Korroch, project attorney, First Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation result from the possible dangers and hazards to navigation associated with a fireworks display. This regulation is effective from 8:30 p.m., 3 July 1991 to 10:30 p.m. 3 July 1991. This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Security Measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 33 CFR 160.5.

2. A new § 165.T1054 is added to read as follows:

§ 165.T1054 Safety Zone: Upper Bay and East River, New York.

(a) *Location.* The following area is declared a Safety Zone: All waters of the East River south of the Brooklyn Bridge, north of a line drawn between the Brooklyn Battery Tunnel Ventilator

on Governors Island and Pier 7 Brooklyn, and east of a line drawn between the Brooklyn Tunnel Ventilator on Governors Island and Slip 7 Manhattan.

(b) *Effective date.* This regulation becomes effective at 8:30 p.m. local time 3 July 1991. It terminates at 10:30 p.m. local time 3 July 1991.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part entry into or movement within this zone is prohibited unless authorized by the Captain of the Port.

Dated: 15 May 1991.

R.M. Larrabee,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 91-13187 Filed 6-4-91; 8:45 am]

BILLING CODE 4910-14-M

Coast Guard**33 CFR Part 165**

[CGD1-91-058]

Safety Zone Regulations: Port of New York

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a moving safety zone in the waters of the Ambrose Channel, Lower Bay, Upper Bay and Hudson River in New York and New Jersey. This zone is needed to protect the maritime community from the possible dangers and hazards to navigation associated with the movement of large naval vessels with limited maneuverability operating in restricted waters. Entry into or movement within this Safety Zone is prohibited unless authorized by the Captain of the Port, New York.

EFFECTIVE DATES: This zone becomes effective on 06 June 1991 at 0:01 a.m. It terminates on 11 June 1991 at 8 p.m. local time, unless terminated sooner by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: MST1 S. T. Whinham of Captain of the Port, New York (212)-668-7934.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to any potential hazards to vessels operating in the

vicinity of these vessels as they transit the port.

Drafting Information

The drafters of this regulation are LTJG C. W. Jennings, project officer for the Captain of the Port, LT R.E. Korroch, project attorney, First Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation result from the desire to protect the maritime public from possible dangers and hazards to navigation associated with the movement of large naval vessels with limited maneuverability operating in restricted waters.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5.

2. A new § 165.T1058 is added to read as follows:

§ 165.T1058 **Safety Zone: Port of New York.**

(a) *Location.* That portion of the waters of Ambrose Channel, Lower Bay, Upper Bay and Hudson River within 500 yards fore and aft, and 200 yards port and starboard of the vessels USS America and USS Nassau anytime they are underway and making way in those waters.

(b) *Effective dates.* This zone will be effective on 06 June 1991 at 0:01 a.m. local time. It terminates on 11 June 1991 at 8 p.m. local time, unless terminated sooner by the Captain of the Port.

(c) *Regulation.* In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port, New York.

Dated: May 20, 1991.

R. M. Larrabee,
Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 91-13188 Filed 6-4-91; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 91-146]

Modification of policy statement and final rule on reconsideration

AGENCY: Federal Communications Commission.

ACTION: Modification of Policy Statement and Final Rule on Reconsideration.

SUMMARY: The Commission's Policy Statement and Order, 55 FR 23082 (1990), is modified by amending 47 CFR 1.65(c) to provide additional time for the filing of reports relating to final adverse adjudications by any court or administrative body bearing on a broadcast permittee's or licensee's character qualifications. The effect of the change is to require such reports to be filed within 90 days of the date that the permittee or licensee becomes aware of the adverse action.

EFFECTIVE DATE: The revised 47 CFR 1.65(c) will be effective July 5, 1991.

FOR FURTHER INFORMATION CONTACT: Martin Blumenthal, Office of General Counsel, Federal Communications Commission, (202) 254-6530.

SUPPLEMENTARY INFORMATION: As adopted in the Policy Statement and Order, the new § 1.65(c) imposes a collection of information burden on the public. On August 2, 1990, the Office of Management and Budget (OMB) approved that reporting requirement. (OMB control No. 3060-0449). As modified in this Memorandum Opinion and Order, the revised section 1.65(c) provides respondents with additional time within which to report relevant adjudications. In all other respects, the reporting burden remains the same, and the revision to section 1.65(c) is not a "substantive or material modification" that would require further approval from OMB under the Paperwork Reduction Act. See 5 CFR 1320.11(h).

This is a summary of the Commission's Memorandum Opinion and Order, adopted May 1, 1991, FCC 91-146. The full text of this Commission Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC

Docket Branch (room 230), 1919 M Street, NW., Washington, DC. The full text of this Memorandum Opinion and Order may also be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422. Commissioner Duggan is issuing a separate statement.

Title: Policy Regarding Character Qualifications in Broadcast Licensing; Amendment of Part 1, the Rules of Practice and Procedure, Relating to Written Responses to Commission Inquiries and the Making of Misrepresentations to the Commission by Applicants, Permittees, and Licensees, and the Reporting of Information Regarding Character Qualifications (Memorandum Opinion and Order)

Summary of Memorandum Opinion and Order

1. The Commission has before it petitions for reconsideration of our Policy Statement and Order in this proceeding.¹ 5 FCC Rcd 3252, 55 Fed. Reg. 23082 (1990) (hereinafter referred to as 1990 Character Policy Statement). The 1990 Character Policy Statement generally broadened the previously enunciated range of licensee misconduct that would be considered relevant in judging the character qualifications of a broadcast applicant. We also required broadcast licensees to report adjudications of relevant misconduct to the Commission within thirty days of the final decisions in such cases. See 47 CFR 1.65(c).

A. The Range of Relevant Non-FCC Misconduct

2. MAP suggests that the Commission's inquiry into an applicant's character should include consideration of all civil judgments that involve misrepresentation, whether or not the misrepresentation is made to a governmental unit, and the Commission should consider convictions for non-

¹ The petitions were filed jointly by (1) Media Access Project and Telecommunications Research and Action Center (hereinafter referred to as MAP) and (2) Chronicle Broadcasting Co., Post-Newsweek Stations, Inc., The Providence Journal Company, Shenandoah Valley Educational Television Corporation, and the Spartan Radiocasting Company (Joint Petitioners). Comments were filed by the National Association of Broadcasters (NAB); the National Broadcasting Company, Inc. (NBC); EZ Communications, Inc. (with Great American Television and Radio Company, Inc., McGraw-Hill Broadcasting Company, Inc., and Renaissance Communications Corporation); and Cox Enterprises, Inc. (with HSN Communications, Inc.). LIN Broadcasting Corporation and Vermont ETV, Inc. filed statements in support of the joint Petition. MAP filed reply comments.

serious as well as serious misdemeanors. MAP also argues that the Commission should consider stipulations of facts in plea bargains, consent decrees, and settlements, where those facts are sufficient to raise substantial and material questions concerning an applicant's character.

3. Our 1986 and 1990 policy statements identified the categories of non-FCC misconduct that are most clearly relevant to an applicant's qualifications. We continue to believe the public interest would not be served by expenditure of Commission and applicant resources on routine consideration of other, less relevant categories of misdeeds. Specifically, as to civil matters, we continue to believe that judgments relating to fraudulent representations to a governmental unit or mass media related violations of antitrust or anticompetitive laws bear most directly on an applicant's qualification to be a broadcast licensee. Based on our experience, we believe that the category of civil misrepresentation is too broad to be presumptively relevant to a broadcaster's qualifications. We may, however, consider such matters on a case-by-case basis. Similarly, we do not believe that, as a general matter, misdemeanor convictions presumptively have relevance, and broadening the category of misdemeanors as suggested by MAP would effectively require that we routinely evaluate the relevance of virtually all misdemeanor convictions, and, in the vast majority of cases, would most probably lead to prolonged litigation without countervailing public interest benefits. We also continue to believe that allegations of relevant non-FCC related misconduct should generally be resolved by the forum in which the litigation is pending.² Where that litigation has ended in a settlement agreement, consent decree, or acquittal and there is no admission or finding of unlawful misconduct, we believe it is generally inappropriate for us to reach legal conclusions on the basis of any stipulated facts.³ As we indicated in the 1990 Character Policy Statement, however, although we intend to be guided by these policies, we remain "free to exercise * * * discretion in situations that arise." 5 FCC Rcd at 3252, citing *Guardian Federal Savings & Loan*

Ass'n v. Federal Savings & Loan Insurance Co., 589 F2d 658, 666 (D.C. Cir. 1978).

B. Scope of Reportable Misconduct

4. Consistent with its suggestion that we broaden the range of relevant misconduct, MAP urges us to require applicants and licensees to report all civil and criminal violations of law involving misrepresentation, all misdemeanors, consent decrees, and indictments. In contrast, the Joint Petitioners and Cox, noting that we may consider "serious misdemeanor convictions in appropriate or compelling cases," seek clarification as to which misdemeanors are "serious" and therefore presumably reportable. The Joint Petitioners, as well as NAB and Cox, also suggest that we require reporting of adjudicated non-FCC misconduct only where a licensee principal (i.e., a person with an attributable interest in the licensee) is a named defendant in the adjudication.

5. Although we may consider serious misdemeanor convictions in appropriate or compelling cases, consistent with our view that misdemeanors in the vast majority of cases are not relevant to our character concerns, we will not require that misdemeanor convictions be reported to us. We will determine which misdemeanors are serious and the effect of any such convictions on a case-by-case basis as such matters are brought to our attention by concerned parties. Similarly, in light of our determination that civil misrepresentation not involving governmental units is not generally relevant, we will not require reporting of such adjudications. In this regard, we note that applicants must report indictments, as well as other pending cases involving relevant misconduct, and, in appropriate cases, information on pending cases of relevant misconduct may form the basis of a condition on the grant of the application. 1990 Character Policy Statement, 5 FCC Rcd at 5253. In the case of licensees for which no applications are pending, however, there is no grant upon which to place such a condition.

6. We also reject Joint Petitioners' request that principals of a licensee be required to report adjudicated non-FCC misconduct only if they are a named defendant. In our attribution rules, we generally determined that officers, directors and persons holding a five percent or greater voting interest may exercise influence or control over a licensee. See 47 CFR 73.3555 Note 2; see also Attribution of Ownership, 97 FCC

2d 997 (1984).⁴ In light of this conclusion, it logically follows that such persons may also affect management of a non-licensee company.

C. Timing of the Reports Required by § 1.65(c)

7. The Joint Petitioners contend that reporting adverse adjudications of relevant misconduct within 30 days of the adjudication imposes a substantial burden, and licensees need more time to monitor and report on their own litigation activities and those of any person or entity holding an attributable interest in the licensee. To ease the burden of continually monitoring such litigation, the Joint Petitioners suggest that the Commission require only annual litigation reports, filed at the same time as the annual ownership report.

8. Section 1.65(c) requires permittees and licensees to report final adverse adjudications of misconduct that would be reportable on an application for renewal.⁵ Under the 1990 Character Policy Statement, renewal applicants will be required to report adverse final action taken by any court or administrative body with respect to the applicant or parties to the application relating to any felony, mass media related antitrust or unfair competition, criminal fraud, fraud before another governmental unit, or discrimination. We believe that the Commission's regulatory goals would not be adversely affected by requiring the reports to be filed within 90 days of the time a permittee or licensee becomes knowledgeable of the adjudicated misconduct. In this regard, permittees and licensees have an obligation to make reasonable, good faith efforts to become informed of reportable adjudications of relevant misconduct. The additional time will give permittees and licensees the opportunity to focus on the filing of complete and accurate reports, without unduly impeding the commencement of whatever action the Commission deems appropriate in a particular case. Section 1.65(c) is being amended accordingly.

⁴ Note 2 provides for exceptions to this general rule for: minority interests in corporations if there is a single holder of more than 50% of the voting stock; certain investment companies, insurance companies and bank trust departments; insulated limited partnership interests; and certain officers and directors of diversified corporations or parent corporations.

⁵ Applicants are required to update their applications by reporting the initiation or adjudication of relevant actions within 30 days of their occurrence pursuant to section 1.65(b). That requirement remains unchanged by this Memorandum Opinion and Order.

² We retain the discretion to condition grants on the outcome of pending litigation involving relevant non-FCC related misconduct. See 1990 Character Policy Statement, 5 FCC Rcd at 3253.

³ A plea bargain generally involves a plea of guilty to one or more criminal charges. As a result of that plea, the defendant is convicted of the crime. Such a conviction is an adjudication for purposes of applying our character policy.

D. Other Matters

9. Comparative Consideration of Character. MAP suggests that we consider non-disqualifying misconduct in comparative proceedings. We continue to believe that character is essentially a matter of an applicant's basic qualifications. Our experience has been that there is little to be gained from comparative consideration of non-FCC related misconduct that is insufficient to warrant disqualification. Thus, as we determined in the 1986 Policy Statement, the public interest is better served by eliminating such considerations from comparative proceedings. See Alden Communications Corp., 3 FCC Rcd 5047 (Rev. Bd. 1988), recon. denied, 3 FCC Rcd 6601, 6602 (Rev. Bd. 1988), review denied, 4 FCC Rcd 5413 (1989), aff'd., D.C. Cir. 89-1488 (Oct. 30, 1990) (mem.). FCC-related misconduct will, however, continue to be relevant to a renewal applicant's ability to obtain a renewal expectancy. See 1986 Policy Statement, 102 FCC 2d at 1232 n.125.

10. Conditions on Grants. MAP asks that we announce a new policy of deferring action on applications where appropriate and specifically conditioning all grants on the review of any subsequent adjudication of potentially disqualifying conduct, including misconduct by station assignors or transferors. The 1990 Character Policy Statement indicated that, in appropriate cases, we would condition grants on the outcome of pending proceedings in other forums. We do not believe it would be appropriate to adopt a policy of blanket conditions in all cases or to adopt a general deferral policy. Rather, we will review all such cases on their merits to determine whether a condition is appropriate and the parameters of any such conditions.

11. Section 312(a). Cox argues that midterm reports of adverse adjudications are unnecessary as the Communications Act does not empower the Commission to revoke a license on the basis of such adjudications. Section 312(a)(2) provides that the Commission may revoke a station license "because of conditions coming to the attention of the Commission which would warrant it in refusing to grant a license or permit on an original application." 47 U.S.C. § 312(a)(2). We believe that the provision permits the revocation of a license for "conditions" occurring during the license term. See *Radio Para La Raza*, 27 RR 2d 836, 840 (1973) (section 312(a)(2)) permits the Commission to look at events following the grant of an application; cf. *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, n.3 (1969) (a

requirement of operation in the public interest is implicit in section 312(a)(2) revocation authority).

E. Conclusion

12. Accordingly, it is ordered that the Petition for reconsideration filed jointly by the Media Access Project and the Telecommunications Research and Action Center is denied.

13. It is further ordered that the Petition for Reconsideration filed jointly by Chronicle Broadcasting Co., Post-Newsweek Stations, Inc., The Providence Journal Company, Shenandoah Valley Educational Television Corporation, and the Spartan Radiocasting Company is granted to the extent indicated above, and is denied in all other respects.

14. It is further ordered that § 1.65(c) of the Commission's rules IS amended as set forth below effective July 5, 1991.⁶

15. The action herein is taken pursuant to sections 4(i), 303(r), 308(b), 312, 319(a) and 403 of the Communications Act of 1934, as amended.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Radio.

Rule Changes

Part 1 of title 47 of the CFR is amended as follows:

1. The authority citation for part 1 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1068, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

2. Section 1.65 is amended by revising paragraph (c) to read as follows:

§ 1.65 Substantial and significant changes in information furnished by applicants to the Commission.

(c) All broadcast permittees and licensees must report to the Commission any adverse finding or adverse final action taken by any court or administrative body that involves conduct bearing on the permittee's or licensee's character qualifications and that would be reportable in connection with an application for renewal as reflected in the renewal form. The report required by this subsection must be filed

⁶ Licensees are currently required to file § 1.65(c) reports within 30 days of the relevant adjudication. In light of our decision to increase the time within which to file such reports, we will not enforce the existing rule prior to the effective date of the revised rule.

within 90 days of the date that the permittee or licensee becomes knowledgeable of any such reportable adverse findings or adverse final actions not previously reported to the Commission. Permittees and licensees bear the obligation to make reasonable, good faith efforts to become knowledgeable of any such reportable adjudicated misconduct.

[FR Doc. 91-13151 Filed 6-4-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 1 and 73

[Docket No. 90-264; FCC 91-154]

Practice and Procedure; Comparative Hearing Process for New Applicants

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Memorandum Opinion and Order provides clarification of and certain procedural adjustments to the Report and Order which was intended to substantially reduce the time consumed in the conduct of comparative hearings and agency review in cases involving applicants for new broadcast facilities. This action was taken in order to speed service to the public.

EFFECTIVE DATE: This rule is effective on July 1, 1991, except § 73.1620 which is effective August 1, 1991. The modification of the Ruarch policy announced in the Report and Order, as modified in this Memorandum Opinion and Order, shall become effective on August 1, 1991.

FOR FURTHER INFORMATION CONTACT: Martin Blumenthal, Office of General Counsel, Federal Communications Commission, (202) 254-6530.

SUPPLEMENTARY INFORMATION: The collection of information contained in the rules adopted in the Report and Order was submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422. The Office of Management and Budget approved that collection of information on March 22, 1991. The amendment to the collection of information adopted in this Memorandum Opinion and Order is not a substantive or material modification that would require further approval from OMB under the Paperwork Reduction Act.

OMB Number: 3060-0471

Title: Proposals To Reform the Commission's Comparative Hearing Process To Expedite the Resolution of Cases (Memorandum Opinion and Order in General Docket 90-264)

Summary of Memorandum Opinion and Order

This is a summary of the Commission's Memorandum Opinion and Order, adopted May 9, 1991, and released May 15, 1991, FCC 91-154. The full text of this Commission Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Docket Branch (room 230), 1919 M Street, NW., Washington, DC. The full text of this Memorandum Opinion and Order may also be purchased from the Commission's copy contractor.

1. This Memorandum Opinion and Order provides clarification of and certain procedural adjustments to the Report and Order in this proceeding, reflecting the Commission's efforts to reduce substantially the time consumed in the conduct of comparative hearings and agency review in cases involving applicants for new broadcast facilities. 56 F.R. 787 (January 9, 1991); 6 FCC Rcd 157. Petitions for reconsideration of the action were filed by: the Federal Communications Bar Association (FCBA); Timothy K. Brady, *et al.* (Brady); Black Citizens for a Fair Media, *et al.* (BCFM); and the National Association for the Advancement of Colored People, *et al.* (NAACP).¹

2. The FCBA requests clarification of rule changes regarding the payment of the hearing fee before an application is designated for hearing. The following clarification is provided. Hearing fee payments will be triggered by the Public Notice announcing the acceptance of an application for filing. That Public Notice will also specify a date for the payment of the hearing fee. All commercial broadcast applications that have not been the subject of such a Public Notice released prior to July 1, 1991 (the effective date of the rule change), must pay the hearing fee on a date established in the Public Notice announcing the acceptance of the application for filing. All commercial broadcast applications that have been the subject of such a Public Notice released prior to July 1, 1991, will be required to pay their hearing fee by July 15, 1991, unless such applications are designated for hearing before that date.

¹ No oppositions to the Petitions for Reconsideration were filed, but on March 8, 1991, Jeffrey Rochlis (Rochlis) filed comments on the NAACP petition. No reply pleadings were filed.

All applicants designated for hearing before July 15, 1991, should pay their hearing fee with their Notices of Appearance. Appendix A of the Memorandum Opinion and Order specifies the procedures for payment of the hearing fee by applicants that were accepted for filing before the effective date of this rule change. We wish to emphasize that this hearing fee payment requirement also applies to renewal applicants that face a comparative challenge.²

3. The Report and Order limited the ability of a successful applicant to "withdraw" divestiture and integration proposals under the Ruarch policy to cases in which a "global" settlement was entered into and filed with the presiding judge on or before the notice of appearance deadline. The FCBA suggests that a later date, after the completion of discovery, would be more appropriate. Recognizing that discovery often aids the settlement process, we will apply the Ruarch policy and permit applicants to withdraw divestiture and integration proposals in conjunction with settlement agreements filed up until the date established for the exchange of exhibits in the case, that is, after the completion of discovery in the case. After the exhibit exchange date, the successful applicant will be expected to fulfill its divestiture and integration proposals.

4. The FCBA and Brady offer a number of suggestions to fine tune the revised discovery procedures. The FCBA suggests that the initial exchange of documents and integration statements be delayed until a date five days after the notice of appearance deadline. We agree that a five-day delay would permit applicants to avoid the burden and costs of serving materials on applicants that no longer wish to participate in the case, and we will amend our rules accordingly.³ The FCBA also seeks

² The challenging applicant must pay its hearing fee on the date established in the Public Notice announcing the acceptance for filing of that application, and we believe it is only fair that the renewal applicant should pay its hearing fee at the same time. Thus, the date for fee payment established in the Public Notice of acceptance of the challenging application will also be the date on which the renewal applicant must pay its hearing fee. Where the challenging application was accepted for filing in a Public Notice released before July 1, 1991, appendix A specifies the method of hearing fee payment for both the renewal applicant and challenger.

³ With further regard to the standardized document production order and integration statement, we agree with the FCBA's comment that disputes over the sufficiency of an exchange should not be elevated to a question of whether an applicant should be dismissed. However, a failure to exchange any materials would constitute a failure to prosecute, resulting in the dismissal of an applicant. Moreover, as the FCBA suggests, the

clarification of the requirement to submit "initial" supplemental document requests within ten days of the first document exchange. That requirement is intended to expedite requests for additional relevant documents that were not covered in the categories of the standardized document production order or are revealed in the materials exchanged pursuant to that order or in the standardized integration statement. The failure to request such documents within the ten-day period would not foreclose an applicant's right to request other documents identified in future discovery, including depositions.

5. With regard to the conduct of depositions, the FCBA suggests that we reinstate the 21-day notice rule for depositions of an applicant's principals,⁴ and Brady suggests that we should further limit the location of depositions, requiring them to be held in the community of license of the proposed station, unless the parties agree to some other location. Under our new discovery rules, an applicant's principals are on notice that they may be called for depositions during the period commencing with the initial document exchange and ending 90 days after the release of the designation order. In these circumstances, requiring an additional 21-days' advance notice of the depositions of principals would needlessly delay the proceedings. We believe that, within the period provided for depositions, the applicants and their attorneys will be able to work out reasonable schedules for the conduct of depositions of principals. Nor do we believe that limiting the deponent's option to select the deposition location would facilitate discovery. Our purpose in creating the option is to eliminate, to the extent possible, disputes over the location of deposition sessions. Whether sessions are held in Washington, DC or the proposed community of license, someone will have to travel to the session. We agree with Brady that bringing all principals and attorneys together in one place for deposition sessions may have a salutary effect on the settlement process, but we do not believe that we should mandate such collective deposition sessions by limiting the deponent's option to the proposed community of license.

6. The FCBA asks us to make it clear that a party requesting enlargement of

submission of a standard integration statement after designation for hearing does not give rise to an opportunity to upgrade any previously submitted integration proposal.

⁴ Twenty one days notice is required for depositions of persons who are not principals of an applicant in the case.

issues is not foreclosed from supplementing a discovery request included in such motions on the basis of the opposing party's responsive pleading or information developed during the discovery on the enlarged issue. Such supplemental requests are not foreclosed, although any such requests are subject ultimately to control by the presiding judge.

7. The Report and Order amended § 1.248 of our rules to make it clear that ALJs should permit oral testimony and cross examination only where material issues of decisional fact cannot adequately be resolved without oral evidentiary hearing procedures or the public interest otherwise requires oral evidentiary proceedings. The FCBA suggests that the application of this new rule will engender litigation over the need for oral testimony and thereby waste, rather than save, time. Although there may be cases that involve disputes over the need for a witness's testimony, we believe that, overall, more time will be saved by reasonable limitations on oral testimony than would be lost in the resolution of such disputes. In this regard, we note that a determination of whether a witness's testimony is needed resides in the exercise of the presiding judge's sound discretion.

8. With regard to pleading cycles, the FCBA argues that the 45 days provided for in the Report and Order is inadequate to prepare meaningful findings that would be of assistance to the ALJ in preparing the Initial Decision.⁵ We continue to believe that in the routine case, proposed findings can reasonably be prepared within the 45-day time guideline. However, it was not our intention to circumscribe the exercise of an ALJ's discretion to set longer time limits, particularly in cases involving numerous parties and complex questions of fact and/or law. Similarly, we believe that the 25 page limit is reasonable for exceptions to initial decisions, but the Review Board may grant waivers of that limit, particularly in complex cases.

9. The Report and Order gave ALJs the authority to impose forfeitures up to the maximum amount permitted by statute. See 47 U.S.C. 503(b)(2)(A). The FCBA argues that forfeitures for serious misconduct should be applied by the Mass Media Bureau, pursuant to a uniform policy so that applicants are not assessed different forfeitures for

essentially the same misconduct. We are confident that ALJs, utilizing decisions in other forfeiture cases, will exercise this authority equitably, and any party that believes it has been treated unfairly can avail itself of review procedures. Thus, we believe that the presiding judge is in the best position to make a determination on the underlying misconduct and assess a forfeiture, if appropriate.

10. However, we are concerned that applicants not be able to escape possible forfeiture liability by simply dismissing their applications, by settlement or otherwise, before the ALJ has rendered a decision on the forfeiture. Thus, where an applicant subject to a potential forfeiture is dismissed, the Commission will determine whether a forfeiture is appropriate in light of the alleged misconduct, and we are amending § 1.80 of our rules to provide that any order dismissing an applicant facing a potential forfeiture will be forwarded to the Commission for possible action. 47 CFR 1.80. Under section 1.117, the Commission will have 40 days to determine whether it should pursue the forfeiture. 47 CFR 1.117.⁶

11. The FCBA raises a number of questions on how the new procedures will be applied to proceedings in progress. Generally, in the cases designated for hearing before the effective date of these changes, the timing of discovery and the setting of other procedural dates are under the control of presiding judges. We are confident that, in the exercise of their discretion, ALJs will not permit such cases to languish on a "slow track" while subsequently designated cases are expedited by the application of these procedures.

12. BCFM seeks clarification of the requirement in the new section 73.1620(g) that certain reports must be filed by applicants "granted as a result of a settlement or other decision in a comparative hearing." The petitioner believes that the reporting requirement should be applicable to the successful applicant whenever the grant is a result of a decision on the comparative merits of the applicants, a settlement, or the other applicants are simply dismissed. The petitioner also asks that the one-year holding period relating to the transfer or assignment of construction

permits and/or licenses be applied in a similar fashion. See 47 CFR 73.3597(a)(1).

13. It was not our intention to apply the reporting requirements of section 73.1620(g) to applicants granted after designation for a comparative hearing where the competing applications are abandoned through inaction or voluntary dismissal. The reporting requirement was adopted to ensure that applicants fulfill comparative promises that were either relied upon by the Commission in deciding the case or taken into consideration by competitors in post-designation settlements. In this regard, our experience indicates an applicant's decision simply to abandon its application normally is influenced by factors that bear no relation to a competitor's comparative promises. We shall therefore require reports only from applicants that were granted after consideration of their comparative merits in a hearing or pursuant to post-designation settlements. Having determined that § 73.1620(g) should not be amended to read as suggested by BCFM, the petitioner's assertion that § 73.3597 be similarly amended is moot.⁷ However, we will amend § 73.1620(g) to make it clear that reports are not required from applicants unless their grant was the result of a post-designation settlement or a decision favoring them after comparative consideration of mutually exclusive applicants.⁸

14. The Report and Order noted that certain suggestions offered by the NAACP dealing with comparative evaluation factors were beyond the scope of this proceeding. Petitioner argues that its proposals were within the scope of our invitation to commenters to submit "other proposals designed to achieve [expedition in the resolution of comparative broadcast proceedings]." Proposals to Reform the Comparative Hearing Process to Expedite the Resolution of Cases (NPRM), 5 FCC Rcd 4050, 4055 (1990). In the alternative, the NAACP asks that its filing be treated as a petition for rulemaking. In comments on the NAACP petition, Rochlis requests that we establish a "pioneer's preference" in FM comparative

⁷ In any event, although BCFM and other parties suggested modification of the holding period rule in this proceeding, no change in that provision was proposed, and we consider the matter beyond the scope of this proceeding.

⁸ The reporting requirement in section 73.1620(g) was approved by the Office of Management and Budget on March 22, 1991. OMB No. 3060-0471. The amendment to the rule being adopted herein is not a "substantive or material modification" that would require further approval from OMB under the Paperwork Reduction Act. See 5 CFR 1320.11(h).

⁵ The Report and Order provided 60 days for the filing of findings and replies, including 45 days for findings and 15 days for replies. We noted, however, that if delays in obtaining hearing transcripts is not a factor, findings should be filed within 30 days.

⁶ After hearings, an ALJ's decision to assess a forfeiture would be rendered under section 1.80(g) of our rules. 47 CFR 1.80(g). However, where the ALJ does not render a decision on the forfeiture matter because the application is dismissed, any Commission decision on the forfeiture matter would be rendered pursuant to § 1.80(f) of our rules. 47 CFR 1.80(f).

proceedings. The preference would be available to the applicant that successfully petitioned for rulemaking to add the channel to the FM Table of Allotments. See 47 CFR part 202.

15. This proceeding is not intended to focus on the criteria by which the Commission makes comparative evaluations between mutually exclusive broadcast applicants. Rather, it is concerned with the process by which facts relevant to those criteria are brought before the Commission for decision with the goal of expediting those decisions. Both the NAACP and Rochlis note that we had specifically proposed changes to the Ruarch policy and the Anax doctrine. See Ruarch Associates, 103 FCC 2d 1178 (1986); Anax Broadcasting, Inc., 87 FCC 2d 483 (1981); see also NPRM 5 FCC Rcd at 4052, 4053 (1990). However, neither our Ruarch nor Anax proposals evidenced any intention on the part of the Commission to change the underlying comparative criteria. Moreover, the rule and policy changes adopted in the Report and Order in this proceeding were limited to the procedural aspects of comparative proceedings, not the criteria that would be used to evaluate the comparative merits of applicants. 6 FCC Rcd at 159-160, 161-162 (1990). Although the changes in the comparative criteria proposed by the NAACP and Rochlis could also serve to expedite hearings by making the comparative process less attractive for participation by some potential competing applicants, we believe that any changes in our comparative criteria would be inappropriate in this proceeding.

16. The rule changes being adopted on reconsideration have been analyzed with respect to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520, and found to impose no new or modified requirements or burdens on the public.

17. Accordingly, it is ordered that the Petition for Partial Reconsideration filed by the Federal Communications Bar Association is granted to the extent indicated above and is denied in all other respects.

18. It is further ordered that the Petition for Partial Reconsideration filed by Timothy K. Brady, et al. is denied.

19. It is further ordered that the Petition for Reconsideration and/or Clarification filed by Black Citizens for a Fair Media, et al. is granted insofar as clarification is provided above and is denied in all other respects.

20. It is further ordered that the Petition for Reconsideration, or in the Alternative Petition for Rulemaking filed by the National Association for the Advancement of Colored People, et al. is

denied insofar as it requests reconsideration, but that pleading and the comments thereon filed by Jeffrey Rochlis will be treated as a petition for rulemaking.

21. It is further ordered that parts 1 and 73 of the Commissions rules, 47 CFR parts 1 and 73, are amended as set forth below.

22. It is further ordered that the rule changes adopted in the Report and Order in this proceeding, as modified herein, shall become effective on July 1, 1991, except that the modification of the Ruarch policy enunciated in the Report and Order in this proceeding, as modified herein shall become effective on August 1, 1991, and it shall apply to all requests for approval of agreements filed on that date and thereafter.

23. It is further ordered that all commercial broadcast applications that have been the subject of a public notice released prior to July 1, 1991, announcing the acceptance for filing of mutually exclusive applications, shall pay their hearing fee by July 15, 1991, unless an order designating such applications for hearing is released before that date. All applicants designated for hearing by orders released before July 15, 1991, should pay their hearing fee with their Notices of Appearance.

24. This action is taken pursuant to authority contained in sections 4(i), 4(j), 5(b), 5(c), 303(r) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 155(b), 155(c), 303(r) and 309.

For further information concerning this proceeding, contact Martin Blumenthal, Office of General Counsel (202) 254-6530.

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 73

Radio broadcasting, Television broadcasting.

Federal Communications Commission.

William F. Caton,
Acting Secretary.

Rule Changes

47 CFR parts 1 and 73 are amended as follows:

PART 1—[AMENDED]

1. The authority citation for part 1 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1068, 1082, as amended; 47 U.S.C. 154, 303; Implement, 5 U.S.C. 552, unless otherwise noted.

2. Section 1.80 is amended by adding a new paragraph (g)(3) to read as follows:

§ 1.80 Forfeiture proceedings.

(g) * * *

(3) Where the possible assessment of a forfeiture is an issue in a hearing case to determine which pending application should be granted, and the applicant facing a potential forfeiture is dismissed pursuant to a settlement agreement or otherwise, and the presiding judge has not made a determination on the forfeiture issue, the order of dismissal shall be forwarded to the attention of the full Commission. Within the time provided by § 1.117, the Commission may, on its own motion, proceed with a determination of whether a forfeiture against the dismissing applicant is warranted. If the Commission so proceeds, it will provide the applicant with a reasonable opportunity to respond to the forfeiture issue (see paragraph (f)(3) of this section) and make a determination under the procedures outlined in paragraph (f) of this section.

3. Section 1.221 is amended by removing paragraph (c)(1) and adding new paragraphs (f) and (g) to read as follows:

§ 1.221 Notice of hearing; appearances.

(f) A fee must accompany each written appearance filed with the Commission in certain cases designated for hearing. See subpart C, part 1 for the amount due. Except as provided in paragraph (g) of this section, the fee must accompany each written appearance at the time of its filing and must be in conformance with the requirements of subpart G of the rules. A written appearance that does not contain the proper fee, or is not accompanied by a deferral request as per § 1.1115 of the rules, shall be dismissed and returned to the applicant by the fee processing staff. The presiding judge will be notified of this action and may dismiss the applicant with prejudice for failure to prosecute if the written appearance is not resubmitted with the correct fee within the original 20 day filing period.

Note: If the parties file a settlement agreement prior to filing the Notice of Appearance or simultaneously with it, the hearing fee need not accompany the Notice of Appearance. In filing the Notice of Appearance, the applicant should clearly indicate that a settlement agreement has been filed. (The fact that there are ongoing negotiations that may lead to a settlement does not affect the requirement to pay the

fee.) If a settlement agreement is not effectuated, the Presiding Judge will require immediate payment of the fee.

(g) In comparative broadcast proceedings involving applicants for new facilities, where the hearing fee was paid before designation of the applications for hearing as required by the Public Notice described at § 73.3571(c), 73.3572(d), or 73.3573(g) of this chapter, a hearing fee payment should not be made with the filing of the Notice of Appearance.

4. Section 1.229 is amended by revising paragraph (e) to read as follows:

§ 1.229 Motions to enlarge, change, or delete issues.

(e) In comparative broadcast proceedings involving applicants for only new facilities, in addition to the showing with respect to the requested issue modification described in paragraph (d) of this section, the party requesting the enlargement of issues against an applicant in the proceeding shall identify those documents the moving party wishes to have produced and any other discovery procedures the moving party wishes to employ in the event the requested issue is added to the proceeding.

(1) In the event the motion to enlarge issues is granted, the Commission or delegated authority acting on the motion will also rule on the additional discovery requests, and, if granted, such additional discovery will be scheduled to be completed within 30 days of the action on the motion.

(2) The moving party may file supplemental discovery requests on the basis of information provided in responsive pleadings or discovered as a result of initial discovery on the enlarged issue. The grant or denial of any such supplemental requests and the timing of the completion of such supplemental discovery are subject to the discretion of the presiding judge.

(3) The 30-day time limit for completion of discovery on enlarged issues shall not apply where the persons subject to such additional discovery are not parties to the proceeding. In such case, additional time will be required to afford such persons adequate notice of the discovery procedures being employed.

5. Section 1.325 is amended by revising paragraph (c) introductory text, (c)(1) introductory text, (c)(2) introductory text and (c)(3) to read as follows:

§ 1.325 Discovery and production of documents and things for inspection, copying, or photographing.

(c) In comparative broadcast proceedings involving applicants for only new facilities, all applicants will serve the materials listed in the Standard Document Production Order and the Standardized Integration Statement on all other parties in the case that have filed Notices of Appearance. The exchange of these materials must be accomplished within five days after the date established for filing notices of appearance (see § 1.221).

(1) *Standard Document Production Order.* The following documents must be produced or objected to on grounds of privilege (Unless otherwise directed by the presiding officer, copies of these documents should not be filed with the presiding officer):

(2) *Standardized Integration Statement.* On the same day that documents are exchanged pursuant to the Standardized Document Production Order, the following information must also be provided by all applicants (Copies of this statement should be filed with the presiding officer and served on all parties to the proceeding that have filed Notices of Appearance):

(3) *Supplemental document production.* Parties may request additional relevant documents, not called for in the Standard Document Production Order, at any time after the release of the designation order. Supplemental requests for documents based on materials exchanged pursuant to the Standardized Document Production Order and Standardized Integration Statement must be filed no later than ten days after those standardized exchanges. Other supplemental document requests must be filed no later than ten days after receipt of the information on which those requests are based. Supplemental document requests will be handled under the procedures established in paragraph (a) of this section. To facilitate the resolution of disputes concerning the production of documents, the presiding officer may convene a pre-hearing conference to hear argument on and dispose of any such disputes.

PART 73—[AMENDED]

6. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

7. Section 73.1620 is amended by revising paragraph (g) introductory text to read as follows:

§ 73.1620 Program tests.

(g) *Reports required.* In their application for a license to cover a construction permit (FCC Form 302) and on the first anniversary of the commencement of program tests, applicants for new broadcast facilities that were granted after designation for a comparative hearing as a result of a post designation settlement or a decision favoring them after comparative consideration must report.

[FR Doc. 91-12791 Filed 6-4-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[DA 91-647]

Private Land Mobile Radio Services; Acceptance of 220-222 MHz Private Land Mobile Applications

AGENCY: Federal Communications Commission.

ACTION: Final rule; order.

SUMMARY: The Chief, Private Radio Bureau, released this Order freezing acceptance of 220-222 MHz applications. It was necessary to take this action to begin the sizable administrative task of processing the more than 50,000 applications received during the first month applications were accepted for land mobile use in the band, to prepare for any necessary lotteries for applications in the band, and to permit the Bureau to continue to process pending applications in all radio services it administers without severely adversely affecting speed of service.

DATES: Applications for the 220-222 MHz band filed on or after May 25, 1991, are not being accepted for filing.

FOR FURTHER INFORMATION CONTACT: Federal Communications Commission, Private Radio Bureau, Licensing Division, Consumer Assistance Branch (717) 337-1212.

SUPPLEMENTARY INFORMATION:

Order

Adopted: May 24, 1991; Released: May 24, 1991.

By the Chief, Private Radio Bureau:
1. On March 14, 1991, the Commission adopted service rules for private land mobile use of the 220-222 MHz spectrum.¹ The Commission provided

¹ Report and Order, PR Docket No. 89-552, FCC 91-74 (April 17, 1991).

that applications for this new spectrum would be accepted beginning the second day after publication of a summary of the Report and Order in PR Docket No. 89-552 was published in the Federal Register. The summary of that Report and Order was published in the Federal Register on April 29, 1991.² The Commission began accepting applications for the 220-222 MHz frequency band on May 1, 1991.

2. The Licensing Division typically receives in the neighborhood of 10,000 applications per month for the land mobile radio services administered by the Bureau. In the past three weeks, however, the Licensing Division has received well over 50,000 applications just for the 220-222 MHz band. This influx of applications has created, at a minimum, an additional workload of one-half year for the entire Licensing Division.

3. Effective midnight May 24, 1991, no new applications for the 220-222 MHz band will be accepted for filing by the Federal Communications Commission. Applications for the 220-222 MHz band filed on or after May 25, 1991, will not be accepted for filing.³

² 56 FR 19596 (1991).

³ Because imposition of this freeze on acceptance of 220-222 MHz applications is procedural in nature, it is not subject to the notice and comment provisions of the Administrative Procedure Act (APA). See *Kessler v. FCC*, 328 F.2d 673 (DC Cir. 1963). Further, because this freeze is procedural in nature it is not subject to the 30 day effective date provisions of the APA. In any event, good cause exists to place the freeze on acceptance of 220-222 MHz applications in immediate effect because advance notification would likely prompt the filing of additional applications and thus defeat the administrative purpose of the freeze.

4. This action is necessary to permit the Bureau to begin the sizable administrative task of processing the applications for the 220-222 MHz band and preparing for any necessary lotteries for applications in this band.⁴ This action is also necessary to permit the Bureau to continue to process pending applications in all other radio services it administers without severely adversely affecting speed of service.

5. This action will not place prospective applicants for the 220-222 MHz frequency band at a disadvantage, because applications are considered on a first-come, first-served basis from day-to-day.⁵ Any applications that would have been filed from this point forward would have been considered only after all other pending applications had been resolved. The relative position of any new applications with respect to all previously filed applications will thus remain unchanged irrespective of whether these new applications were filed in the near future or, alternatively, at such time as the freeze is lifted. Additionally, prospective applicants are not prejudiced by this action because they will have complete access to any

available spectrum remaining after we have completed processing of applications already on file.

6. This action is taken pursuant to the provisions of section 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(j), and §§ 0.131 and 0.331 of the Commission's Rules, 47 CFR 0.131 and 0.331.⁶ This freeze on Commission acceptance of applications for the 220-222 MHz band will remain in full force and effect until such time as additional action is taken to resume acceptance of these applications.

7. For further information contact the Consumer Assistance Branch, Licensing Division, Private Radio Bureau, (717) 337-1212.

List of Subjects in 47 CFR Part 90

Business and industry, Radio, Trunking.

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

[FR Doc. 91-13250 Filed 6-4-91; 8:45 am]

BILLING CODE 6712-01-M

⁴ This action is not in any way related to the Emergency Motion for Stay in PR Docket No. 89-552 filed by Walker, Bordon, Hamlin, Theriot & Hardy on behalf of itself and Ashton R. Hardy and Bradford D. Carey. This action is purely administrative in nature, and reflects no consideration of the merits of the pending Emergency Motion for Stay. Nor does it constitute any ruling upon the pending Emergency Motion for Stay.

⁵ See Report and Order, PR Docket No. 89-552, FCC 91-74 (April 17, 1991), at paras. 56-59; 47 CFR 90.711(a); Public Notice, Report No. 12686 (April 17, 1991), at pages 4-5.

⁶ The Commission has broad discretion to freeze acceptance of new applications. *Kessler v. FCC*, 328 F.2d 673 (DC Cir. 1963). This action is akin to and consistent with prior actions taken by the Commission and by delegated authority to freeze acceptance of applications in certain radio services where the public interest, convenience and necessity warrant such action. See e.g., Order, 5 FCC Rcd 2136 (1990) (action by the Commission restricting acceptance of AM broadcast applications); Public Notice, 1 FCC Rcd 1264 (1990) (action by the Commission placing a temporary freeze on acceptance of AM daytime broadcast applications); Public Notice, Report No. 1207 (December 6, 1983) (action by the Private Radio Bureau suspending filing of 2.5 GHz applications).

Proposed Rules

Federal Register

Vol. 56, No. 108

Wednesday, June 5, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Parts 207 and 220

[Docket No. R-0732; Regulations G and T]

Amendments to Margin Regulations To Accommodate Deposit Requirements of Regulated Clearing Agencies

May 30, 1991.

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing to amend Regulation G and Regulation T to exclude from the limitations of the margin rules the deposit of margin securities with clearing agencies regulated by the Commodity Futures Trading Commission or the Securities and Exchange Commission, provided these deposits are made in connection with action by the clearing agency to issue options or to guarantee performance on futures contracts or options on futures contracts.

DATES: Comments should be received on or before July 15, 1991.

ADDRESSES: Comments, which should refer to Docket No. R-0732, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, or delivered at the C Street entrance between 8:45 a.m. and 5:15 p.m. weekdays to room B-2223. Comments may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Laura Homer, Securities Credit Officer, or Scott Holz, Attorney, Division of Banking Supervision and Regulation (202) 452-2781; for the hearing impaired, only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson, (202) 452-3544.

SUPPLEMENTARY INFORMATION: Regulation G requires registration of persons other than banks, brokers or

dealers who extend or maintain credit (over prescribed minimum amounts) secured directly or indirectly by margin stock. If the credit is to purchase or carry margin stock, limitations are placed on the valuation of the stock collateral. Regulation T prohibits a broker-dealer from borrowing in the ordinary course of business on the collateral of exchange-traded stock from any lender other than a bank. On prior occasions the Board has found guarantees and certain business relationships to involve an extension of credit. Therefore, registration of a clearing firm under Regulation G would be required under the Board's traditional view of the term if margin securities are deposited as collateral. Broker-dealers would also be prohibited from borrowing from the non-bank lenders under that reasoning.

In May, 1983, in conjunction with a completely revised and simplified Regulation T (48 FR 23161, May 24, 1983), the Board added a provision permitting clearing members of an options clearing agency to deposit certain margin stock with the clearing agency as the required margin for options transactions. No changes in Regulation G were made at that time as the persons who would make the deposit were all subject to Regulation T and it was felt that the corollary Regulation G issue was implicitly decided. In March of 1984, the provision was expanded (49 FR 9559) in conjunction with an SEC action on the issue. The present rule provides that the provisions of Regulation T do not apply to the deposit of securities with an options clearing agency registered with the SEC provided the deposit complies with the rules approved by the SEC.

Options and futures exchanges trade standardized contracts and the clearing agency guarantees settlement. A person wishing to offset an obligation or take a profit in these markets does not need to search for the original counterparty to the contract as the clearing agency has been substituted for both sides. This fungibility of contracts and substitution enables a person to pay the price or receive the profit at any time as long as someone is willing to take similar action on the other side of the contract. The deposit, changed daily at both futures and options clearing agencies, reflects the current value of the underlying

product, security or index established by trades on the exchange.

The proposed rule will eliminate the need for registration and regulation under Regulation G of clearing agencies for the regulated futures markets, provided the deposit complies with rules of the CFTC. It will accord the clearing arm of the CME and other futures clearing agencies the same exemptive treatment in performing the clearing function that the Board has given to an options clearing agency.

Regulatory Flexibility Act

The Board believes there will be no significant economic impact on a substantial number of small entities if this proposal is adopted. Comments are invited on this statement.

Paperwork Reduction Act

No additional reporting requirements or modifications to existing reporting requirements are proposed.

List of Subjects

12 CFR Part 207

Banks, Banking, Brokers, Credit, Federal Reserve System, Investment companies, Investments, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Bonds, Brokers, Commodity futures, Credit, Federal Reserve System, Foreign currencies, Investment companies, Investments, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

For the reasons set out in this notice, and pursuant to the Board's authority under sections 3, 7, 8, 17, and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78c, 78g, 78h, 78q, and 78w), the Board proposes to amend 12 CFR parts 207 and 220 as follows:

PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS

1. The authority citation for part 207 continues to read as follows:

Authority: Secs. 3, 7, 8, 17 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78c, 78g, 78h, 78q, and 78w).

2. Section 207.1 is amended by adding a new sentence at the end of paragraph (b):

§ 207.1 Authority, purpose, and scope.

(b) Purpose and scope. * * * This part does not apply to clearing agencies regulated by the Securities and Exchange Commission or the Commodity Futures Trading Commission that accept deposits of margin stock in connection with the issuance of options on any security, certificate of deposit, securities index or foreign currency or the guarantee of contracts of sale of a commodity for future delivery or options on such contracts.

PART 220—CREDIT BY BROKERS AND DEALERS

1. The authority citation for part 220 continues to read as follows:

Authority: Secs. 3, 7, 8, 17 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78c, 78g, 78h, 78q, and 78w).

2. In § 220.14 the section heading and paragraph (b) are revised to read as follows:

§ 220.14 Clearance of Securities, Options, and Futures.

(b) *Deposit of securities with a clearing agency.* The provisions of this part shall not apply to the deposit of securities with an options or futures clearing agency for the purpose of meeting the deposit requirements of the agency if:

(1) The clearing agency issues options on any security, certificate of deposit, securities index or foreign currency or guarantees performance of contracts of sale of a commodity for future delivery or options on such contracts;

(2) The clearing agency is registered with the Securities and Exchange Commission or is the clearing agency for a contract market regulated by the Commodity Futures Trading Commission; and

(3) The deposit consists of any margin security and complies with the rules of the clearing agency that have been approved by the Securities and Exchange Commission or the Commodity Futures Trading Commission.

By order of the Board of Governors of the Federal Reserve System, May 30, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-13192 Filed 6-4-91; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 20

[Order No. 1502-91]

Juvenile Records

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule would modify 28 CFR 20.32(a)-(b) to authorize inclusion of juvenile records in the FBI criminal history information system. The current rule excludes offenses committed by juvenile offenders unless a juvenile is tried as an adult. The proposed change is necessary to implement an element of the comprehensive violent crime control initiative that was announced by President Bush in 1989.

DATES: Comments must be received by July 5, 1991.

ADDRESSES: Comments should be addressed to: Paul J. McNulty, Acting Director, Office of Policy Development, room 4234, Main Justice Building, Constitution Ave. & 10th St., NW., Washington, DC, 20530.

FOR FURTHER INFORMATION CONTACT: David J. Karp, Attorney Advisor, Office of Policy Development, United States Department of Justice, at (202) 514-3273. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Section 534(a)(1) of title 28, United States Code, provides that the Attorney General shall "acquire, collect, classify, and preserve identification, criminal identification, crime, and other records." The function of maintaining criminal history record information is delegated to the Federal Bureau of Investigation pursuant to 28 CFR 0.85(b) and 20.31.

The proposed amendment, authorizing inclusion of juvenile records in the FBI records system, is necessary to implement an element of the President's comprehensive violent crime control initiative which calls on the states to "maintain records and report on all serious crimes committed by juveniles who frequently continue their criminal careers into adulthood, but often escape early identification as repeat offenders and recidivists because their juvenile records are not reported." White House Fact Sheet of May 15, 1989, at 6. The same point was endorsed by the Attorney General's Task Force on Violent Crime in 1981, Final Report at 82-83, which stated that states should be encouraged to make available criminal history information for juveniles convicted of serious crimes, and that such information should be entered into the FBI criminal records system.

Empirical data confirms that the Unavailability of juvenile criminal records is a substantial concern in relation to serious offenders. For example, the Bureau of Justice Statistics has estimated that 55 percent of armed robbers in state prisons in 1986 had previously been sentenced to probation or incarceration as a juvenile, and that 15 percent had a prior juvenile, but no adult, sentence. Corresponding figures for other crime categories include the following:

Offense	Prior juvenile sentence (percent)	Prior juvenile sentence only (percent)
Homicide.....	38	13
Sexual assault.....	36	11
Aggravated assault.....	43	9
Robbery.....	54	15
Kidnapping.....	50	15
Burglary.....	58	9
Larceny.....	49	8
Arson.....	43	14

Similarly, information compiled by the Federal Bureau of Investigation in the Uniform Crime Reports shows that a substantial proportion of arrests for serious crimes involve juveniles. In 1988, for example, the figures for arrests reported to the FBI showed that persons under the age of 18 accounted for 1,634,790 arrests, comprising over 16 percent of the total. The corresponding figures concerning reported arrests for particular crimes in 1988 include the following:

Offense	Arrests of persons under 18	Percent of all arrests (percent)
Willful homicide.....	1,765	11
Forcible rape.....	4,118	14
Aggravated assault.....	38,536	13
Robbery.....	24,337	22
Burglary.....	111,284	34
Larceny-theft.....	351,133	30
Motor vehicle theft.....	61,301	40
Arson.....	6,216	43

The availability of records of juvenile arrests and convictions for law enforcement purposes is currently limited, however, by a rule that generally bars inclusion of juvenile records in the national system of criminal records maintained by the FBI. The proposed amendment would address this problem by authorizing the inclusion of juvenile records for serious crimes in the FBI records system.

Section 20.32 of title 28, Code of Federal Regulations, defines the offenses that will be accepted in the FBI records system. Paragraph (a) of the rule

states that information is to be included concerning serious and/or significant offenses. Paragraph (b) states that nonserious offenses are excluded, such as drunkenness, vagrancy, disturbing the peace, curfew violations, loitering, false fire alarm, non-specific charges of suspicion or investigation, and traffic infractions. However, the second sentence of paragraph (b) states a blanket exclusion of offenses committed by juveniles, unless the juvenile was tried as an adult. The amendment would delete this sentence, and would make a conforming change in paragraph (a), to make it clear that both "adult and juvenile" offenses are to be included.

A complementary change in 18 U.S.C. 5038, which governs reporting of records of juveniles who are federally prosecuted, has been proposed in section 601 of the Administration's proposed Comprehensive Violent Crime Control Act of 1991. The statutory change would require reporting of records for federally prosecuted juveniles who are convicted of the serious violent crimes and drug crimes that support the exercise of Federal jurisdiction pursuant to clause (3) of the first paragraph of 18 U.S.C. 5032. It would also authorize reporting of records as permitted by the law of the state in which a federal juvenile delinquency proceeding takes place.

In accordance with 5 U.S.C. 605(b), it is certified that this rule will not have a significant economic impact on a substantial number of small entities. This is not a major rule within the meaning of section (1)(b) of E.O. 12991, and it does not have federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

List of Subjects in 28 CFR Part 20

Classified information, Crime, Intergovernmental relations, Investigations, Law Enforcement, Privacy.

Therefore, by virtue of the authority vested in me by law, including 28 U.S.C. 509, 510, 5 U.S.C. 301, and 28 U.S.C. 534, it is proposed that part 20 of title 28, Code of Federal Regulations, be amended as follows:

1. The authority citation for Part 20 continues to read as follows:

Authority: Pub. L. 93-83; 87 Stat. 197 (42 U.S.C. 3701, et seq.; 28 U.S.C. 534); Pub. L. 92-544, 86 Stat. 1115; Pub. L. 99-169, 99 Stat. 1002, 1008-1011, as amended by Pub. L. 99-569, 100 Stat. 3190, 3196.

§ 20.32 [Amended]

2. Section 20.32 is amended by inserting the words "adult and juvenile" before the word "offenses" in paragraph

(a) and by removing the second sentence in paragraph (b).

Dated: May 29, 1991.

Dick Thornburgh,
Attorney General.

[FR Doc. 91-13163 Filed 6-4-91; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 242

Flood Plain Management Services Program Establishment of Fees for Cost Recovery

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of the Army is instituting procedures to recover the costs of services to be provided to Federal agencies and private persons under the U.S. Army Corps of Engineers Flood Plain Management Services Program, pursuant to section 321 of the Water Resources Development Act of 1990 (Pub. L. 101-640). By offsetting the costs to the Federal Government, cost recovery would enable the Corps to continue to offer Flood Plain Management Services to Federal agencies and private persons. The proposed Fee Schedule has been developed to provide a standard method of cost recovery for all Corps Major Subordinate Commands and District Commands, and to minimize the administrative costs of collecting fees for the services provided.

DATES: Written comments must be received by July 5, 1991.

ADDRESSES: Send comments to HQUSACE, ATTN: CECW-PF, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Mr. Jerome Q. Peterson, Chief, Flood Plain Management Services and Coastal Resources Branch, 202/272-0169.

SUPPLEMENTARY INFORMATION:

Background

The Corps of Engineers Flood Plain Management Services Program provides a wide range of flood plain and related assistance in response to numerous requests from the public and private sectors. In the past, these services have been provided at no charge. Section 321 of the Water Resources Development Act of 1990 (Pub. L. 101-640) is a legislative change that applies the "Beneficiary Pay" principle to the Flood

Plain Management Services Program by authorizing the Secretary of the Army to establish and collect fees to recover the costs of services provided to Federal agencies and private persons. Section 321 also prohibits the collection of fees from State, regional, or local governments or other non-federal public agencies for those services. The procedures described herein have been developed to initiate cost recovery during Fiscal Year 1991 for Flood Plain Management Services that are requested by Federal agencies and private persons. They involve the use of a nonnegotiable Fee Schedule and negotiated agreements to recover costs. This proposed rule involves only the Fee Schedule. However, for information purposes, all of the cost recovery procedures are briefly described herein.

Description of Service Groups

Through the Flood Plain Management Services Program, the Corps compiles and disseminates data on floods and flood damage potential and provides this information and guidance for flood-related planning. This includes flood hazard information, interpretation, and guidance for sites or short reaches of flood prone areas along streams, lakes, and coasts in addition to follow-up technical and planning assistance designed to support the actions of others to reduce future flood damages. Services are only provided upon request.

For cost recovery purposes, the services provided to Federal agencies and private persons have been grouped according to the level of effort and staffing required to respond to a request. Group 1 includes services that can be provided in ten minutes or less. Group 2 includes services based on existing data and requiring from ten minutes to one day to provide. Group 3 includes services requiring the development of new data and taking over one day and up to one work week (five days) to provide. Group 4 includes services requiring more than one work week to provide.

Cost Recovery Procedures

The following procedures have been developed to recover costs and to minimize the additional administrative costs associated with the cost recovery process. Note that only the Fee Schedule used to recover the cost of Group 2 services is the subject of this rule-making.

There will be no charge for Group 1 services. Procedures to recover the costs of services which can be provided in ten minutes or less would be infeasible because of the accounting and

administrative costs involved. Therefore, no cost recovery procedure was developed.

A Fee Schedule will be used to charge for services requiring more than ten minutes and up to one day (Group 2 services). The proposed Fee Schedule divides the services covered by this group into five levels according to the complexity of the task. Level 1 includes the provision of basic information from readily available data that does not require technical evaluation or documentation and is transmitted by form letter to the customer. Level 2 includes the provision of information from readily available data that requires minimal technical evaluation and is transmitted by form letter to the customer. Level 3 includes the provision of information that requires some file search, a brief technical evaluation, and documentation of results by a form letter or brief composed letter to the customer. Level 4 includes the provision of information and assistance that requires moderate file search, a brief technical evaluation, and documentation of results in a composed letter to the customer. Level 5 includes the provision of information and assistance that requires significant file search or retrieval of archived data, a moderate technical evaluation, and documentation of results in a brief letter report to the customer. The responding office will use the proposed Fee Schedule to select the Level that best applies to the specific request for services and charge the related fee for that level of effort. The services will be provided on a first-come, first-served basis after payment is received.

A Letter Request will be used to recover the cost of services requiring more than one day and up to one work week (five days) to provide (Group 3 services). The responding office will first negotiate the cost of the service with the requester. The requester, in turn, will send a letter requesting the service and including payment in full to the responding office. After receipt of the Letter Request, the work will be completed in a timely manner and the services will be furnished to the requester with a minimum of additional coordination.

Letters of Agreement, Interagency Agreements, and Memorandums of Agreement will be the formal instruments used to recover the cost of services that require more than one work week to provide (Group 4 services). The responding office will negotiate an agreement with the requester which includes, but is not limited to, a statement describing the

work to be done, a time and cost estimate, and a completion schedule. For private persons, the agreement will be in the form of a Letter of Agreement signed by both parties and work will be scheduled and accomplished after receipt of payment. For Federal agencies, the agreement will be in the form of an Interagency Agreement or Memorandum of Agreement and work will be scheduled and accomplished on a reimbursable basis after receipt of the fully executed Memorandum of Agreement or Interagency Agreement. By keeping the agreements simple and as accurate as possible, administrative costs will be kept to a minimum.

Cost Recovery Charges

Where appropriate, charges will be developed to recover approximately 100% of the total costs for providing services to Federal agencies and private persons.

There will be no charge for Group 1 services.

The proposed Fee Schedule will be used Corps-wide to charge for Group 2 services. In developing the proposed fees for each level of Group 2 services, approximate costs based on current staffing, estimates of the work required, and related administrative costs were collected from each Major Subordinate Command and District Command. The proposed fees for each level are Corps-wide averages of these approximate costs.

Once established, these fees will be reviewed each fiscal year using the most current cost data available. If necessary, the Fee Schedule will be revised after public notice and comment.

Letters of Request, Letters of Agreement, Interagency Agreements, and Memorandums of Agreement will be used to charge for Group 3 and Group 4 services. The charges for these services will vary according to the complexity of the request and the time and staff involved in providing the service.

Note 1: The Department of the Army has determined that the proposed regulations do not contain a major proposal requiring the preparation of a regulatory impact analysis under Executive Order 12291.

Note 2: The Department of the Army has determined that this proposed rule will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 33 CFR Part 242

Administrative practice and procedure, Flood plains, Floods, and Water resources.

For the reasons set out in the preamble, 33 CFR part 242 is proposed to be established as set forth below:

Dennis C. Cochran,
Colonel, GS, Executive, OASA(CW).

PART 242—FLOOD PLAIN MANAGEMENT SERVICES PROGRAM ESTABLISHMENT OF FEES FOR COST RECOVERY

Sec.

- 242.1 Purpose.
- 242.2 Applicability.
- 242.3 References.
- 242.4 Definitions.
- 242.5 General.
- 242.6 Fee Schedule.

Authority: Section 321 of Public Law 101-640, Water Resources Development Act of 1990.

§ 242.1 Purpose.

This regulation gives general instructions on the implementation of section 321 of Public Law 101-640 as it applies to the use of a Fee Schedule for recovering the cost of providing Flood Plain Management Services to Federal agencies and private persons.

§ 242.2 Applicability.

This regulation applies to all HQUSACE elements, Major Subordinate Commands, and District Commands of the Corps of Engineers having Civil Works responsibilities.

§ 242.3 References.

(a) Section 321, Public Law 101-640, Water Resources Development Act of 1990.

(b) Corps of Engineers Engineering Regulation 1105-2-100, Planning Guidance Notebook.

(c) Corps of Engineers Engineering Pamphlet 37-1-4, Cost of Doing Business.

§ 242.4 Definitions.

As used in this part—

Private persons means all entities in the private sector, including but not limited to individuals, private institutions, sole proprietorships, partnerships, and corporations.

Total cost means total labor charges which include adjustments for benefits, administrative overhead, and technical indirect costs. These terms are described in Reference 242.3(c).

§ 242.5 General.

(a) The Corps of Engineers Flood Plain Management Services Program provides a wide range of flood plain and related assistance upon request. Depending on the complexity of the request, either a Fee Schedule or a negotiated agreement will be used to recover the cost of

services provided to Federal agencies and private persons.

(b) State, regional, or local governments or other non-Federal public agencies will be provided Flood Plain Management Services without charge.

§ 242.6 Fee Schedule.

(a) *General.* The Fee Schedule described herein will be used to recover the cost for Flood Plain Management Services requiring more than ten minutes and up to one work day to provide. The Fee Schedule has been designed to minimize administrative costs and to allow the flexibility needed to recover the approximate total costs for services provided to Federal agencies and private persons.

(b) *Level of effort.* For establishing charges, services covered by the Fee Schedule have been divided into five levels as follows:

(1) Level 1 includes the provision of basic information from readily available data that does not require technical evaluation or documentation and is transmitted by form letter to the customer.

(2) Level 2 includes the provision of information from readily available data that requires minimal technical evaluation and is transmitted by form letter to the customer.

(3) Level 3 includes the provision of information that requires some file search, a brief technical evaluation, and documentation of results by a form letter or brief composed letter to the customer.

(4) Level 4 includes the provision of information and assistance that requires moderate file search, a brief technical evaluation, and documentation of results in a composed letter to the customer.

(5) Level 5 includes the provision of information and assistance that requires significant file search or retrieval of archived data, a moderate technical evaluation, and documentation of results in a brief letter report to the customer.

(c) *Charge determination.* The Fee Schedule will be used Corps-wide. As requests are received, the responding office will select the appropriate level on the Fee Schedule to determine the charge for providing the service.

(d) *Provision of services.* The services will be provided on a first-come, first-served basis after payment has been received.

(e) *Fees.* The Fee Schedule, including a brief description of the services in each of the five levels and the related charges, is shown in Table 1 below. The fee for each level is based on a Corps-

wide average of estimated current costs for providing that level of service.

(f) *Review and revision of fees.* The fees shown in the Fee Schedule will be reviewed each fiscal year using the most current cost data available. If necessary, the Fee Schedule will be revised after public notice and comment.

TABLE 1.—FEE SCHEDULE; STANDARD CORPS-WIDE CHARGES FOR FPMS TASKS REQUIRING MORE THAN TEN MINUTES AND UP TO ONE DAY

Level	Description of work	Fee
1.	Basic information from readily available data that does not require technical evaluation or documentation and is transmitted by form letter..	\$25
2.	Information from readily available data that requires minimal technical evaluation which is transmitted by form letter..	55
3.	Information that requires some file search, brief technical evaluation, and documentation of results of a form letter or by a brief composed letter..	105
4.	Information and assistance that requires moderate file search, brief technical evaluation, and documentation of results in a composed letter..	165
5.	Information and assistance that requires significant file search or retrieval of archived data, moderate technical evaluation, and documentation of results in a brief letter report..	325

[FR Doc. 91-12897 Filed 6-4-91; 8:45 am]

BILLING CODE 3710-06-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AD97

Dependency and Income

AGENCY: Department of Veterans Affairs.

ACTION: Proposed Rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations regarding dependency and income for determining entitlement to benefits under certain need-based programs. These amendments are required because of recent legislation which removed certain income sources from consideration in entitlement determinations, and recent opinions of the VA General Counsel dealing with income computations. The intended results of these changes are to ensure that the income sources identified by legislation are excluded

from computations in determining eligibility for certain need-based programs and income computation procedures are in accordance with VA regulations.

DATES: Comments must be received on or before July 5, 1991. This amendment is proposed to be effective 30 days after the date of publication of the final rule. Comments will be available for public inspection until July 15, 1991.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this amendment to Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132, at the above address between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays), until July 15, 1991.

FOR FURTHER INFORMATION CONTACT: Don England, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, (202) 233-3005.

SUPPLEMENTARY INFORMATION: The regulations regarding exclusions of income for VA pension and parents' dependency and indemnity compensation (DIC) programs are being expanded to exclude income received from three sources. Section 653, Public Law 100-456, authorizes payment of an annuity to qualified surviving spouses of veterans who died before November 1, 1953, and who were entitled to retired or retainer pay on the date of death. This annuity, paid by the Department of Defense, is to be in addition to any death pension benefits paid by VA, and the income from the annuity is not to be considered as income in computing entitlement to such pensions.

Public Laws 101-201 and 100-687 remove, respectively, one specific and one generalized category of income from consideration in entitlement computations for pension and/or parents' DIC programs. Public Law 101-201 provides that any payment received pursuant to the settlement in the case of In re Agent Orange Product Liability Litigation in the United States District Court for the Eastern District of New York (MDL No. 381) be treated by VA as reimbursement for previously unreimbursed medical expenses and not counted as income for entitlement computation purposes. (Section 1203 of Public Law 100-687 provided a similar, but somewhat narrower exclusion, and provided a later effective date.) Section 1402 of Public Law 100-687 amends 38

U.S.C. 415(f)(1)(I) and 503(a)(5) to exclude from income, for entitlement computations in parents' DIC and improved pension programs, all reimbursements for any casualty loss up to an amount equaling the greater of the fair market value or the reasonable replacement value of the property involved at the time immediately preceding the loss. Formerly only proceeds from fire insurance were excluded by the statute, and that exclusion is being retained for old-law and section 306 pension programs which were not changed by the law.

We are proposing to amend 38 CFR 3.261, 3.262, and 3.272 to exclude payments from the Agent Orange settlement funds (effective January 1, 1989), and 38 CFR 3.262, 3.272, and 3.261 to exclude the special Department of Defense survivor annuity from income computations for pension purposes. We are also proposing to amend 38 CFR 3.263 and 3.275 to exclude payments from the Agent Orange settlement funds from net worth determinations for pension and parents' DIC purposes. We are also proposing to amend 38 CFR 3.261, 3.272, and 3.262 to exclude reimbursement for all casualty losses, as limited by the revised statute, from income computations in determining entitlement to parents' DIC and improved pension benefits. The amendment to 38 CFR 3.262 also includes the exclusion of fire insurance proceeds from other need-based determinations.

We are proposing to amend 38 CFR 3.271(a) to add definitions of recurring, irregular, and nonrecurring income. We are also proposing to amend 38 CFR 3.271(f) by redesignating the introductory text as paragraph (1) and adding paragraph (2) which establishes procedures in cases where dependents with income are claimed by a beneficiary but cannot be included on an award of benefits due to lack of necessary evidence of birth, marriage, or relationship. This proposed rule will preclude the creation of an overpayment in a pension case where dependents with countable incomes are established retroactively.

We are proposing to revise the language of 38 CFR 3.273, 3.660, and

3.661 to remove references to the terms "annual," "year," and "calendar year" and, where required, substituting the term "12-month annualization period." In § 3.661(b)(1), regarding discontinuance and resumptions of old-law and section 306 pension cases, we are proposing to add the word "calendar" preceding references to "year." These amendments are to update terminology so as to avoid confusion over references to periods of time as these periods relate to existing pension programs.

We are proposing to add a sentence to 38 CFR 3.273(a) to specify that recomputations of improved pension rates following the effective date of entitlement because of changes in the maximum annual pension rate or changes in a beneficiary's income will be accomplished under the rules for running awards which are shown in paragraph (b) of this section. This addition is to add specificity of procedure for computations of entitlement for initial awards.

We are proposing to add 38 CFR 3.273(d) providing regulatory authority for income computations based on changes in recurring and irregular income. This amendment will bring consistency to this regulation by including these new categories with existing methodology for nonrecurring income.

We are proposing to change the paragraph heading of 38 CFR 3.660(a)(2) from "Contingency" to "Effective dates" as that title more clearly describes the content of the paragraph.

We are proposing amendments to 38 CFR 3.661 changing references to "income and net worth questionnaires" to "Eligibility Verification Reports," which is current terminology.

We are proposing technical amendments to 38 CFR 3.261 through 3.277 and 3.660 through 3.665 which update terminology and make language gender neutral.

The Secretary hereby certifies that these regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The reason for this certification is that these

amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that these regulatory amendments are non-major for the following reasons.

(1) They will not have an annual effect on the economy of \$100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

(The Catalog of Federal Domestic Assistance program numbers are 64.104, 64.105, and 64.110)

Approved: August 15, 1990.
Edward J. Derwinski,
Secretary of Veterans Affairs.

PART 3—[AMENDED]

38 CFR part 3, Adjudication, is proposed to be amended as follows:

0. The authority citation for Part 3 continues to read as follows:

Authority: 72 Stat. 1114, 38 U.S.C. 210, unless otherwise noted.

§ 3.261 [Amended]

1. In § 3.261 remove the words "protected", "widows", and "Public Law 86-211" in the columnar headings and add, in their place, the words "old-law", "surviving spouses" and "section 306", respectively.

2. In § 3.261 revise item (28), and add item 35 to read as follows:

§ 3.261 Character of income: exclusions and estates.

(28) Reimbursement for casualty loss	Excluded	Excluded	Excluded	Excluded	§ 3.262(t).
Other fire insurance (Pub. L. 100-687)	Included	Excluded	Included	Included	§ 3.262(t).
(35) Agent Orange settlement payments	Excluded	Excluded	Excluded	Excluded	§ 3.262(s)
(a) Deduction of amounts paid by claimant:					
(1) Unusual medical expenses	Not authorized	Not authorized	Not authorized	Not authorized	§§ 3.262(b) (i), & (f).

(2) Veteran: just debts, expenses of last illness and burial.	Not authorized.....	Not authorized, except debts.	Not authorized.....	Not authorized.....	§§ 3.262(m) & (o).
(3) Veteran's spouse or child: expenses of last illness and burial.	Not authorized.....	Not authorized.....	Not authorized.....	Not authorized.....	§ 3.262(n).
(4) Parent's spouse: just debts, expenses of last illness and burial.	Not authorized.....	Authorized.....			§ 3.262(o).
(5) Prepayments on real property mortgages after death of spouse (Pub. L. 91-588).	Not authorized.....	Not authorized.....	Not authorized.....	Authorized.....	§ 3.262(k)(6).
(b) Corpus of estate	Considered conditionally.	Not considered	Not considered	Considered	§ 3.263.

(Authority: Pub. L. 101-201)

3. In § 3.262 paragraphs (l)(1) through (1)(4) and the authority citation are revised and paragraphs (r), (s) and (t) are added to read as follows:

§ 3.262 Evaluation of income.

* * *

(l) * * *

(1) *Veterans.* For the purpose of section 306 pension, there will be excluded unreimbursed amounts paid by the veteran for unusual medical expenses of self, spouse, and other relatives of the veteran in the ascending as well as descending class who are members or constructive members of the veteran's household and for whom the veteran has a moral or legal obligation to support.

(2) *Surviving spouses.* For the purpose of section 306 pension, there will be excluded unreimbursed amounts paid by the surviving spouse for the unusual medical expenses of self, the veteran's children, and other relatives of the surviving spouse in the ascending as well as descending class who are members or constructively members of the surviving spouse's household and for whom the surviving spouse has a moral or legal obligation to support.

(3) *Children.* For the purpose of section 306 pension, there will be excluded unreimbursed amounts paid by a child for the unusual medical expenses of self, parent, and brothers and sisters of the child.

(4) *Parents.* For dependency and indemnity compensation purposes there will be excluded unreimbursed amounts paid by the parent for the unusual medical expenses of self, spouse, and other relatives of the parent in the ascending as well as descending class who are members or constructively members of the parent's household and for whom the surviving spouse has a moral or legal obligation to support. If the combined annual income of the parent and the parent's spouse is the basis for dependency and indemnity compensation the exclusion is applicable to the combined annual income and extends to the unusual

unreimbursed medical expenses of the spouse's relatives in the ascending as well as descending class who are members or constructively members of the household and for whom the parent's spouse has a moral or legal obligation to support.

(Authority: 38 U.S.C. 415(f)(3) and 503(c))

* * *

(r) *Survivor benefit annuity.* Annuity paid by the Department of Defense under the authority of section 653. Public Law 100-456 to qualified surviving spouses of veterans who died prior to November 1, 1953. (September 29, 1988)

(Authority: Pub. L. 100-456)

(s) *Agent Orange settlement payments.* Payments received by any person in the case of In re Agent Orange Product Liability Litigation in the United States District Court for the Eastern District of New York (MDL No. 381). (January 1, 1989)

(Authority: Public Law 101-201)

(t) *Reimbursement for casualty loss.* The following sources of reimbursements for casualty loss will not be considered as income in determining entitlement to benefits under the programs specified. Amounts to be excluded from computation in parents' dependency and indemnity compensation claims are limited to amounts of reimbursement which do not exceed the greater of the fair market value or the reasonable replacement cost of the property involved at the time immediately preceding the loss.

(1) *Reimbursement for casualty loss of any kind in determining entitlement to parents' dependency and indemnity compensation benefits.* For purposes of paragraph (t) of this section, the term "casualty loss" means the complete or partial destruction of property resulting from an identifiable event of a sudden, unexpected or unusual nature.

(2) *Proceeds from fire insurance in determining dependency of a parent for compensation purposes or in determining entitlement to old-law and section 306 pension benefits.*

(Authority: 38 U.S.C. 415(f))

§ 3.262 [Amended]

4. In § 3.262(g)(2), third sentence, remove the words "Where eligibility to pension is subject to determination under Public Law 86-211 (73 Stat. 432)" and add, in their place, the words "For purposes of section 306 pension".

5. In § 3.262(h), second sentence, remove the word "widow" and add, in its place, the words "surviving spouse".

6. In § 3.262(j)(2), first sentence, remove the words "under Pub. L. 86-211 (Stat. 432)" and "under Pub. L. 86-211" and add the words "section 306" in front of the word "pension" wherever it appears.

7. In § 3.262(j)(3) remove the word "protected" in the paragraph heading and add, in its place, the word "old-law".

8. In § 3.262(k)(1), second sentence, remove the words "pension purposes under the provisions of Pub. L. 86-211 (73 Stat. 432)" and add, in their place, the words "section 306 pension purposes" and revise the authority citation to read "(Authority: 38 U.S.C. 503 (15); Pub. L. 91-588)".

9. In § 3.262 (k)(5) and (k)(6) remove the words "Pub. L. 86-211" and "Pub. L. 86-211 (73 Stat. 432)" wherever they appear, and add, in their place the words "section 306 pension".

10. In § 3.262(m) introductory text, remove the words "Pub. L. 86-211 (73 Stat. 432)" and add, in their place, the words "section 306"; in paragraph (m)(1), remove the word "widow" and add, in its place the words "surviving spouse" and remove the words "she, as wife".

11. In § 3.263(m)(2) remove the word "widow" wherever it appears and add, in its place, the words "surviving spouse"; remove the word "his" where it appears, and add, in its place, the words "the veteran's"; and remove the words "for the expenses of his".

12. In § 3.263(m) the authority is revised to read "(Authority: 38 U.S.C. 503(a))".

13. In § 3.262(n) introductory text, remove the words "Pub. L. 86-211 (73

Stat. 432)" and add, in their place, the words "section 306"; in paragraph (n)(1), remove the words "him" and "his" and add, in their place, the words "the veteran" and "the veteran's"; in paragraph (n)(2), remove the words "wife or widow", and "her as wife or widow" and add, in their place, the words "spouse or surviving spouse", and "the spouse or surviving spouse", and revise the authority citation to read "(Authority: 38 U.S.C. 503(a))".

14. In § 3.262(o) the authority citation appearing at the end of the paragraph is revised to read "(Authority: 38 U.S.C. 415(f))".

15. In § 3.262(p) remove the words "the wife or husband" and add, in their place, the words "spouse or surviving spouse" and remove the words "widow, widower".

§ 3.263 [Amended]

16. In § 3.263(a) remove the words "widow, widower" wherever they appear and add, in their place, the words "surviving spouse".

17. In § 3.263 add paragraph (e) to read as follows:

§ 3.263 Corpus of estate; net worth.

(e) *Agent Orange settlement payments.* There shall be excluded from the corpus of estate or net worth of a claimant any payment made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.). (January 1, 1989)

(Authority: Pub. L. 101-201)

§ 3.271 [Amended]

18. In § 3.271 paragraphs (a) (1) through (3) are added and paragraph (f) is amended by redesignating the introductory text as paragraph (f)(1) and adding paragraph (f)(2) to read as follows:

§ 3.271 Computation of income.

(a) * * *

(1) *Recurring income.* Recurring income means income which is received or anticipated in equal amounts and regular intervals (e.g., weekly, monthly, quarterly, etc.) which will continue throughout an entire 12-month annualization period. The amount of recurring income for pension purposes will be the amount received or anticipated during a 12-month annualization period. Recurring income which terminates prior to being counted for at least one full 12-month annualization period will be treated as nonrecurring income for computation purposes.

(2) *Irregular income.* Irregular income means income which is received or anticipated during a 12-month annualization period, but which is received in unequal amounts or at irregular intervals. The amount of irregular income for pension purposes will be the amount received or anticipated during a 12-month annualization period.

(3) *Nonrecurring income.* Nonrecurring income means income received or anticipated on a one-time basis during a 12-month annualization period (e.g., an inheritance). Pension computations of income will include nonrecurring income for a full 12-month annualization period following receipt of the income.

* * *

(f) * * *

(2) When a claimed dependent is shown to have income which exceeds the additional amount of benefits payable based on the claimed dependency, but evidence requirements of §§ 3.204, 3.205, 3.209, or 3.210 have not been met, the maximum annual rate of improved pension shall be determined without consideration of the claimed dependency. This amount shall be reduced by an amount which includes the income of the unestablished dependent. Adjustments in computation of the maximum annual rate of improved pension shall occur following receipt of evidence necessary to establish the dependency.

(Authority: 38 U.S.C. 210(c))

19. In § 3.272 paragraph (d) and its authority citation are revised and paragraphs (n) and (o) are added to read as follows:

§ 3.272 Exclusions from income.

* * *

(d) *Reimbursement for casualty loss.* Reimbursement of any kind for any casualty loss. The amount to be excluded is not to exceed the greater of the fair market value or the reasonable replacement cost of the property involved at the time immediately preceding the loss. For purposes of this paragraph, the term "casualty loss" means the complete or partial destruction of property resulting from an identifiable event of a sudden, unexpected or unusual nature.

(Authority: Pub. L. 101-201)

* * *

(n) *Survivor benefit annuity.* Annuity paid by the Department of Defense under the authority of section 653, Public Law 100-456 to qualified surviving spouses of veterans who died prior to November 1, 1953. (September 29, 1988)

(Authority: Pub. L. 100-456)

(o) *Agent Orange settlement payments.* Payments received by any person in settlement of the case of In re Agent Orange Product Liability Litigation in the United States District Court for the Eastern District of New York (M.D.L. No. 381). (January 1, 1989)

(Authority: Pub. L. 101-201)

20. In § 3.273 add an introductory text, add a sentence at the end of paragraph (a), and add paragraph (d) to read as follows:

§ 3.273 Rate computation.

The commencement date of change in benefit payments based on rate computations under the provisions of this section will be determined under the provisions of § 3.31 or § 3.660.

(a) * * * Recomputation of rates due to changes in the maximum annual pension rate or rate of income following the initial date of entitlement are subject to the provisions of paragraph (b) of this section.

* * *

(d) *Recurring and irregular income.* The amount of recurring and irregular income anticipated or received by a beneficiary shall be added to determine the beneficiary's annual rate of income for a 12-month annualization period commencing at the beginning of that 12-month annualization period.

§ 3.273 [Amended]

21. In § 3.273(a) and (b)(1) remove the words "annual rate of".

22. In § 3.273(b)(2) remove the words "annual rate" and add, in their place, the word "amount".

23. In § 3.273(c) remove the words "12-month period" and add, in their place, the words "12-month annualization period".

§ 3.275 [Amended]

24. In § 3.275 add paragraph (f) to read as follows:

* * *

(f) *Agent Orange settlement payments.* There shall be excluded from the corpus of the estate or net worth of a claimant any payment made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.). (January 1, 1989)

(Authority: Pub. L. 101-201)

§ 3.277 [Amended]

25. In § 3.277 the authority citation appearing at the end of the section is revised to read "(Authority: 38 U.S.C. 506)".

§ 3.660 [Amended]

26. In § 3.660(a)(2) remove the word "Contingency" in the paragraph heading and add, in its place, the words "Effective dates".

27. In § 3.660(b) introductory text remove the words "year", and "a calendar year" and add, in their place, the words "12-month annualization period" and "the following 12-month annualization period", respectively.

28. In § 3.660(b)(1) remove the words "January 1 of that year" and add, in their place, the words "the beginning of the appropriate 12-month annualization period".

29. In § 3.661(b)(2) remove the word "year" the first two times it appears and the words "within that year" and add, in their place, the words "12-month annualization period" and "within that period", respectively.

§ 3.661 [Amended]

30. In § 3.661, remove the words "Income and net worth. questionnaires" in the section heading and add, in their place, the words "Eligibility Verification Reports".

31. In § 3.661, paragraphs (a)(1) and (b) heading, remove the word "questionnaire" wherever it appears and add, in its place, the word "report".

32. In § 3.661(b)(1) add the word "calendar" before the word "year" each time it appears.

33. In § 3.661(b)(2) remove the words "year" and "income questionnaire", wherever they appear, and add, in their place, the words "12-month annualization period" and "Eligibility Verification Report", respectively.

Editorial note: This document was received at the Office of the Federal Register on May 29, 1991.

[FR Doc. 91-12991 Filed 6-4-91; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 8

RIN 2900-AF17

Discount Rate for Premiums Paid in Advance

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs proposes to amend its regulations to increase the discount which National Service Life Insurance (NSLI), Veterans Special Life Insurance (VSLI), and Veterans Reopened Insurance (VRI) policyholders receive for paying premiums in advance of the monthly due date. This action is

administratively and actuarially sound and complies with relevant statutory authority.

DATES: Comments must be received on or before July 5, 1991. Comments will be available for public inspection until July 15, 1991. This amendment is proposed to be effective 30 days after publication of the final rule.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulation to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 of the above address, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays) until July 15, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Koons, Assistant Director for Insurance, Department of Veterans Affairs Regional Office and Insurance Center, P. O. Box 8079, Philadelphia, Pennsylvania 19101, (215) 951-5360.

SUPPLEMENTARY INFORMATION: Section 729 of title 38 U.S.C. authorizes the Secretary of Veterans Affairs to adjust the discount rates for premiums paid in advance on NSLI, VSLI, and VRI policies, provided the Secretary determines that the adjustment is administratively and actuarially sound for the program of insurance involved. Section 729 further stipulates that the discount rate may not be adjusted lower than the program's guaranteed values. Under sections 702, 723, and 725 of title 38 U.S.C., the guaranteed values for the NSLI, VSLI, and VRI programs are 3%, 2½%, and 3½%, respectively. This amendment proposes to increase the discount for all three programs by adjusting the interest basis used to calculate the discount rate. The new interest rate basis will be 7½% for all three programs. Based on a determination by the Chief of the Insurance Services Actuarial Staff, this adjustment is consistent with the Contribution Principle and the Source of Earnings Method of distributing surplus earnings on investments as recommended by the American Academy of Actuaries and, therefore, it is administratively and actuarially sound.

The 7½% interest basis will be used to calculate the discount for advance premium payments made on or after the effective date of the amendment only.

The Secretary of Veterans Affairs hereby certifies that this proposed amendment to regulations, if promulgated, will not have a significant

impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this proposed amendment to regulations is, therefore, exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that this amendment to regulations will affect only certain Government Life Insurance policyholders. It will, therefore, have no significant direct impact on small entities in terms of compliance costs, paperwork requirements, or effects on competition.

VA has determined that this proposed amendment to regulations is nonmajor in accordance with Executive Order 12291, Federal Regulation. This amendment will not have a \$100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not otherwise have any significant adverse economic effects.

The Catalog of Federal Domestic Assistance number for this proposed regulation is 64.103.

List of Subjects in 38 CFR Part 8

Disability benefits, Life insurance, Veterans.

Approved: 8, 1991.

Edward Derwinski,

Secretary of Veterans Affairs.

38 CFR part 8, National Service Life Insurance, is amended to read as follows:

PART 8—[AMENDED]

1. The third sentence of § 8.5 is revised and the authority citation for § 8.5 is added at the end of the section to read as follows:

§ 8.5 Due Date of Premiums

* * * In any case in which premiums are paid in advance, the premium payable will be the sum of the monthly premiums for the period discounted at the same interest rate as that on which the premium charges are based as set forth in § 8.3, except that for premiums paid in advance on participating National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance on or after July 5, 1991, the discount shall be based on a 7½ percent interest rate.

Authority: 38 U.S.C. 729.

[FR Doc. 91-13179 Filed 6-4-91; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 91-139; FCC No. 91-150]

Higher Output Power on Certain Fire Radio Service Frequencies

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This docket proposes to increase the available transmitter output power on the fire radio service frequency 153.83 MHz and requests comment on whether the increase should also include 33.42 MHz and 46.30 MHz. This action was initiated by a petition for rule making filed by the International Association of Fire Chiefs, Inc. and the International Municipal Signal Association. The effect of the proposed rules would be enhanced on-the-scene fire-fighting communications. **DATES:** Comments must be filed on or before July 22, 1991, and reply comments must be filed on or before August 6, 1991.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steve Sharkey, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, PR Docket No. 91-139, FCC 91-150, adopted May 7, 1991, and released May 30, 1991. The full text of this notice of Proposed Rule Making is available for inspection during normal business hours in the FCC Dockets Branch, Room 230, 1919 M Street, NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20026, telephone (202) 452-1422.

Summary of Notice of Proposed Rule Making

The International Association of Fire Chiefs ("IAFC") and the International Municipal Signal Association ("IMSA") have filed a petition for rule making to increase the maximum output power for transmitters operating on 153.83 MHz from 10 watts to 100 watts. This frequency is used by the Fire Radio Service for on-the-scene fire-fighting communications. The petitioners claim, however, that because many of the vehicular radio units operate with 100 watts output power, the 10 watt power limit precludes necessary

communications on the 153.83 MHz frequency between these vehicular units and fire-fighting personnel using lower power hand-held units. Accordingly, to allow complete communications at the scene of fires the Commission proposes to increase the maximum output power on 153.83 MHz to 100 watts. Currently though, the 10 watt transmitter output power limits the practical use of this frequency to its intended purpose, if the available power is increased, this frequency may become attractive for uses incompatible with on-the-scene fire-fighting communications. Comments are requested on how to best preserve this frequency for its intended purpose. The Commission also requests comment on whether any changes in regulation of 153.83 MHz should be extended to the 33.42 MHz and 46.30 MHz frequencies. Although the petitioners did not mention these frequencies they are intended for the same purpose as 153.83 MHz and are covered by the same rules and restrictions.

Initial Regulatory Flexibility Analysis

Reason for action

This proposal is intended to improve communications between on-the-scene fire-fighting personnel utilizing the fire radio frequencies. This will result in safer and more effective fire-fighting efforts.

Legal Basis

Sections 4(i), 303(g), 303(r) and 303(a) of the Communications Act of 1934, as amended.

Reporting, Recordkeeping, and Other Compliance Requirements

None.

Federal Rules Which Overlap, Duplicate or Conflict With This Rule

None.

Description, Potential Impact and Number of Small Entities Involved

The increase in power for these fire radio frequencies will result in improved communications and safety for fire-fighting units, many of which are small local organizations. Beyond this, we are unable to quantify the potential effects on small entities. We therefore invite specific comments on this point by interested parties.

Any Significant Alternative Minimizing the Impact on Small Entities and Consistent with the Stated Objectives

None.

Paperwork Reduction Act Statement

The proposals contained herein have been analyzed with respect to the

Paperwork Reduction Act of 1980 and found to propose no new or modified form, information collection and/or recordkeeping, labeling, disclosure or record retention requirements, and will not increase burden hours imposed upon the public.

List of Subject in 47 CFR Part 90

Special emergency services, Communications equipment, Radio.

Amendatory Text

A. It is proposed to amend part 90 of the Commission's Rules, 47 CFR part 90 to read as follows:

PART 90—[AMENDED]

1. The authority citation for part 90 continues to read as follows:

Authority: Section 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303, unless otherwise noted.

2. 47 CFR 90.21 is amended by revising the entry for § 153.83 in the table in paragraph (b) and by adding paragraph (c)(18) to read as follows:

§ 90.21 Fire radio service.

(b) * * *

Frequency or band	Class of station(s)	Limitations
153.83	Mobile	17

(c) * * *

(18) The maximum output power of any transmitter authorized to operate on this frequency shall not exceed 100 watts.

3. 47 CFR 90.555 is amended by revising the entry for § 153.830 in the table in paragraph (b) to read as follows:

§ 90.555 Combined Frequency Listing.

(b) * * *

Frequency	Services	Special Limitations
153.830	PF	Max. Power 100 W.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

[FR Doc. 91-13152 Filed 6-14-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION**Federal Railroad Administration****49 CFR Part 225**

[Docket No. RAR-4, Notice No. 2]

Railroad Accident Reporting; Open Meeting

AGENCY: Federal Railroad Administration, Department of Transportation.

ACTION: Notice of open meeting

SUMMARY: On March 14, 1990, the Federal Railroad Administration (FRA) issued an advance notice of proposed rulemaking (ANPRM) soliciting comments and suggestions from the public regarding methods of improving FRA's injury and accident reporting system and its governing regulations (55 FR 9469). The responses to that public notice have provided additional information and identified further issues or subissues related to the issues discussed in the ANPRM. In order to explore matters related to the accident/incident reporting system, FRA will hold an informal open meeting on June 13, 1991, in Washington, DC, with members of the Association of American

Railroads (AAR) Uniformity Committee. The meeting will be open to any interested persons who wishes to attend as an observer. FRA may schedule additional, informal meetings to the extent that interest is expressed by other parties.

DATES: The open meeting will be held on Thursday, June 13, 1991 at 1 p.m.

ADDRESSES: The open meeting will be held in Room 4338, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: Stan Ellis, Office of Safety, FRA, Washington, DC 20590. Telephone: (202) 366-2760 (FTS 366-2760).

Principal Attorney: Billie Stultz, Office of the Chief Counsel, FRA, Washington, DC 20590. Telephone: (202) 366-0635 (FTS 366-0635).

SUPPLEMENTARY INFORMATION: On March 14, 1990, FRA issued an ANPRM requesting comments and suggestions on how to improve all aspects of its accident/incident reporting system and the requirements in part 225 (49 CFR 225). Interested parties were invited to participate in a public hearing on May 17, 1990, and to file written comments prior to May 25, 1990.

The written comments received by FRA have provided additional information and raised further issues and subissues related to the matters discussed in the ANPRM. In addition, FRA has received significant oral comments on same subject. Representatives of the railroads participating in the AAR Uniformity Committee have expressed an interest in exploring possibilities concerning the format in which accident/incident data is gathered pursuant to the FRA Guide for Preparing Accident/Incident Reports. Since these issues bear on regulatory obligations and may touch on issues within the scope of the advance notice, FRA determined that the meeting should be open to any interested person who wishes to observe. FRA would endeavor to favorably entertain requests for additional meetings of this type from other interested parties. Consequently, FRA has scheduled the open meeting for Thursday, June 13, 1991, at 1 p.m., in Room 4338 of the Nassif Building, 400 Seventh Street, NW., Washington, DC.

Issued in Washington, DC on May 31, 1991.

Grady C. Cothen, Jr.,

Associate Administrator for Safety.

[FR Doc. 91-13233 Filed 6-4-91; 8:45 am]

BILLING CODE 4910-06-M

Notices

Federal Register

Vol. 56, No. 108

Wednesday, June 5, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Information Collection Request Under Review

AGENCY: Action.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, The Federal Domestic Volunteer Agency.

SUMMARY: Under the Paperwork Reduction Act (44 U.S.C., chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on the proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents (requests for clearance (SF 83), supporting statement, instructions, transmittal clearance officer.

DATES: OMB and ACTION will consider comments received on or before July 5, 1991. Comments are to be directed to both of the following addresses:

Janet Smith, ACTION Clearance Officer, ACTION, 1100 Vermont Ave. NW., Washington, DC 20525, tel. (202) 634-9245.

Daniel Chenok, Desk Office for ACTION, Office of Management and Budget, 3200 New Executive Office Bldg., Washington, DC 20503, tel. (202) 395-7316.

SUPPLEMENTARY INFORMATION:

Office of ACTION Issuing Proposal: Domestic Operations/VISTA.

Title of Forms: VISTA Volunteer Application and Reference Forms.

Need and use: The VISTA Volunteer application and attendant reference forms are the documents by which essential information is gathered on every VISTA applicant. The data submitted on these forms by applicants and those identified as references by the

applicant will be used by ACTION to evaluate the skills, experience, motivation, and suitability of individuals of full-time, full-year VISTA Volunteer service pursuant to the Domestic Volunteer Service Act of 1973, as amended, Public Law 93-113.

Type of Request: Revision.

Frequency of Collection: Annually.

General Description of Respondents: Volunteer applicants.

Estimated Number of Responses: 2,200.

Estimated Annual Reporting or Disclosure Burden: 3,850 hours.

Dated: May 3, 1991.

Janet Smith,

Clearance Officer, ACTION.

[FR Doc. 91-13182 Filed 6-4-91; 8:45 am]

BILLING CODE 6050-28-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

May 31, 1991.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W, Administration Building, Washington, DC 20250, (202) 447-2118.

Revision

• Foreign Agricultural Service, 7 CFR 1493—Regulations Covering CCC's

Export Credit Guarantee Program (GSM-102) and CCC's Intermediate Export Credit Guarantee Program (GSM-103), Recordkeeping; On occasion, Businesses or other for-profit; Small businesses or organizations; 35,582 responses; 8,007 hours, L.T. McElvain, (202) 447-6211.

• Foreign Agricultural Service, Licensing of Sugar Free from Quota, FAS-947, Recordkeeping; On occasion, Businesses or other for-profit; 545 responses; 1000 hours, Cleveland Marsh, (202) 475-5676.

Extension

• Foreign Agricultural Service, CFR 1494—Regulations Governing CCC's Export Enhancement Program, Recordkeeping; On occasion, Businesses or other for-profit; Small businesses or organizations; 8,974 responses; 4,274 hours, L. T. McElvain, (202) 447-6211.

• Food and Nutrition Service, 7 CFR part 210, National School Lunch Program, Recordkeeping; Monthly; Annually; Biennially, State or local governments; Federal agencies or employees; Nonprofit institutions; 2,232,247 responses; 22,390,798 hours, Marian Stroud, (703) 756-3607.

New Collection

• National Agricultural Statistics Service, Cotton Ginnings Survey, Semi-annually; Annually; Semi-monthly September-January, Businesses or other for-profit; Small businesses or organizations; 14,590 responses; 1,151 hours, Larry Gambrell, (202) 447-7737.

• Agricultural Stabilization and Conservation Service, 7 CFR part 1435—Sugar, CCC-80, Monthly, Businesses or other for-profit; Small businesses or organizations; 630 responses; 945 hours, Matt Smargiasso, (202) 382-0011.

Reinstatement

• Food and Nutrition Service, 7 CFR 251—Emergency Food Assistance Program Regulations, Recordkeeping; On occasion; Monthly; Quarterly; Semi-annually; Annually, State or local governments; Federal agencies or employees; Non-profit institutions; 1,826 responses; 677,705 hours, Diane Berger, (703) 756-3660.

Larry K. Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 91-13239 Filed 6-4-91; 8:45 am]

BILLING CODE 3410-01-M

Forest Service**Easton Ridge Timber Sale, Wenatchee National Forest, Kittitas County, Washington****AGENCY:** Forest Service, USDA.**ACTION:** Revision of a notice of intent to prepare an environmental impact statement.

SUMMARY: Comments concerning the scope and environmental analysis for this USDA-Forest Service proposal on the Cle Elum Ranger District of the Wenatchee National Forest should be received by June 15, 1991. The Federal Register on May 2, 1991 (56 FR 20184) is revised to show that the comments for Easton Ridge Timber Sale should be received by June 15, 1991 and not May 1, 1991 as printed.

ADDRESSES: Submit written comments to John W. Lowery, District Ranger, Cle Elum Ranger District, 803 West Second, Cle Elum, WA 98922.

FOR FURTHER INFORMATION CONTACT: Questions and comments about this EIS should be directed to John W. Lowery, District Ranger, Cle Elum Ranger District, 803 West Second, Cle Elum, WA 98922, phone (509) 674-4411.

Dated: May 28, 1991.

John W. Lowery,
District Ranger.

[FR Doc. 91-13211 Filed 6-4-91; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE**Agency Form Under Review by the Office of Management and Budget (OMB)**

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.**Title:** Current Population Survey—Control Card.**Form Number(s):** CPS-1, CPS-260, CPS-262.**Agency Approval Number:** 0607-0049.**Type of Request:** Revision of a currently approved collection.**Burden:** 17,745 hours.**Number of Respondents:** 57,000.**Avg Hours Per Response:** One and one-half minutes

Needs and Uses: The Current Population Survey is a monthly survey conducted in approximately 57,000 households throughout the United States. Data on demographic and labor force characteristics are collected from a sample of households which represent

the U.S. population. The basic monthly questionnaire is periodically supplemented with additional questions which address specific needs. The Bureau of the Census uses the data to compile monthly averages of household size and composition, age, education, ethnicity, marital status and various other characteristics at the U.S. level. The Bureau of Labor Statistics also uses the data in their monthly calculations of employment and unemployment.

Affected Public: Individuals or households.

Frequency: Monthly.**Respondent's Obligation:** Voluntary.

OMB Desk Officer: Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Clearance Officer, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: May 31, 1991.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 91-13240 Filed 6-4-91; 8:45 am]

BILLING CODE 3510-07-F

Bureau of Export Administration

[Docket Nos. 9102-01, 9102-02, 9102-50, 9102-51]

Marek Cieslak, individually and doing business as M.C. Electronics and Anna Koziel individually and doing business as Datelcomp AB, Respondent

Order

On May 1, 1991, the Administrative Law Judge (ALJ) entered his Recommended Decision and Order in the above-referenced matter. The Decision and Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final action. Having examined the record and based on the facts in this case, I hereby affirm the Decision and Order of the ALJ.

This constitutes final agency action in this matter.

Dated: May 29, 1991.

Joan M. McEntee,

Acting Under Secretary for Export Administration.

Decision Adding Related Persons

Appearance for Respondent: Anna Koziel (pro se); Datelcomp AB, Drabantvagen 21, 17530 Jarfalla, Sweden.

Appearance for Agency: Louis K. Rothberg, Esq., Office of Chief Counsel for Export Administration, U.S. Department of Commerce, room H-3839, 14th & Constitution Ave., NW., Washington, DC 20230.

Order

On July 14, 1989, Marek Cieslak, individually and doing business as M.C. Electronics was denied all U.S. export privileges for a period of 20 years (54 FR 30436 (1989)). That denial was based upon evidence relating to illegal export activity involving microprocessors from the United States to Sweden without the required U.S. export licenses. That conduct was also the subject of a criminal proceeding and conviction based upon Cieslak's plea of guilty.

The Bureau of Export Administration by Counsel now requests that the names of Anna Koziel and Datelcomp AB be added to the table of denied parties on the representation that they are parties related to Respondent Marek Cieslak and are subject to such denial by virtue of their business relationship.

The Agency has produced evidence which reflects that Datelcomp AB was established in Stockholm, Sweden. Further, the two board members listed in the official government certification are Anna Koziel and Marek Cieslak and the persons authorized to sign for the company Datelcomp are Koziel and Cieslak individually. Other reports in the record demonstrate that Anna Koziel is the sole shareholder and Marek Cieslak is the Business Manager of Datelcomp. The identity of these two named individuals as the Respondents in these proceedings is demonstrated by the confirmation of business and residence addresses, the business reports, and the admission of Anna Koziel that Marek Cieslak is employed in her business.

Agency Counsel's assertion that the denied party Marek Cieslak appears to be using Koziel as a "front" to evade the 20 year denial order presently outstanding against him and his company M.C. Electronics (See 54 FR 30436 (1989)) is a valid conclusion which I also draw from the evidence received. Respondent Koziel's submission acknowledges an employment

relationship which is sufficient to conclude that she is a party related by affiliation to an individual on the Table of Denied Parties (15 CFR part 788 Supp. No. 1).

Accordingly, pursuant to the provisions of 15 CFR 788.3(c), paragraph III of the above cited Order Denying Export Privileges is modified to substitute the following as Paragraph III:

After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Respondents are now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services. Those persons now known to be affiliated with at least one of the Respondents and who are accordingly subject to the provisions of the order are—Anna Koziel, individually and doing business as Datelcomp AB, Drabantvägen 21, 17530 Jarfalla, Sweden and Kattfötsvägen 4, 175 74 Jarfalla, Sweden.

Dated: May 1, 1991.

Hugh J. Dolan,

Administrative Law Judge.

This Order as affirmed or modified shall become effective upon entry of the Secretary's final action in this proceeding pursuant to the Act (50 U.S.C.A. app. 2412(c)(1)).

To be considered in the 30 day statutory review process which is mandated by section 13(c) of the Act, submissions must be received in the Office of the Under Secretary for Export Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW., room 3898B, Washington, DC, 20230, within 12 days. Replies to the other party's submission are to be made within the following 8 days. 15 CFR 788.23(b), 50 FR 53134 (1985). Pursuant to section 13(c)(3) of the Act, the order of the final order of the Under Secretary may be appealed to the U.S. Court of Appeals for the District of Columbia within 15 days of its issuance.

[FR Doc. 91-13212 Filed 6-4-91; 8:45 am]
BILLING CODE 3510-DT-M

[Docket Nos. 0110-01 and 0110-02]

Alexander Kovar, Individually and Doing Business as CAE Services; Respondent; Order

On April 29, 1991, the Administrative Law Judge entered his Recommended Decision and Order in the matter referred to above. The Decision and Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final action.

1. I affirm the finding of the ALJ that the Respondent violated §§ 787.2 and

787.3(b) of the Regulations, as alleged in the Charging Letter.

2. The Administrative Law Judge recommended the denial of the Respondent's U.S. export privileges for a period of three years, with two suspended. The Administrative Law Judge based his recommendation on the disparity of the penalty sought by the Department with a penalty imposed in a consent agreement in a related case. A disparity between the denial period imposed in a consent agreement and the denial period imposed on a Respondent who exercises the right to contest the charges administratively is not unconscionable. Based on the seriousness of the Respondent's violations, I am modifying the Order of the Administrative Law Judge to provide for a denial of the Respondent's U.S. export privileges for a period of twenty years, as sought by the Department.

In all other respects, having examined the record and based on the facts in the case, I hereby affirm the Decision and Order of the Administrative Law Judge.

This constitutes final agency action in this matter.

Dated: May 29, 1991.

Joan McEntee,

Acting Under Secretary for Export Administration.

Decision and Order

Appearance for Respondent: Mr. Alexander Kovar (pro se), CAE Services, Loewengasse 2A, A-1030 Vienna, Austria.

Appearance for Agency: Louis K. Rothberg, Esq., Office of Chief Counsel for Export Administration, U.S. Department of Commerce, Room H-3839, 14th and Constitution Avenue, NW., Washington, DC 20230.

Preliminary Statement

On June 28, 1990, the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (the Agency), issued a Charging Letter to Respondent Alexander Kovar, individually and doing business as CAE Services (Kovar), pursuant to the Export Administration Act of 1979 (50 U.S.C.A. app. 2401-2420), as amended (the Act),¹ and the Export Administration Regulations (the Regulations).

The Charging Letter alleged that Respondent committed one violation of 15 CFR 787.3(b) and one violation of 15 CFR 787.2. Respondent filed a timely answer to the Charging Letter, but did not request a hearing. Subsequent to the

filing of evidentiary testimony by both parties, the record closed for decision on January 2, 1991.

Facts

In April 1988, Telega Company of West Germany contacted Mr. Reiner Schaaf (Schaaf) (doing business as Awitex and Digitex in West Germany)² regarding the purchase of a VAX 8550 computer for a July or August 1988 delivery to Dubai, United Arab Emirates. The stated end use in Dubai was an electrical control device for an oil pumping station. (Agency Ex. 1).

In response to Telega's order on behalf of Universal Group, Schaaf began negotiating for the purchase of a VAX 8550 computer with International Computer Exchange, Inc. (ICEX), a computer distributor in Louisville, Colorado. Schaaf represented to ICEX that the end user was Telega in West Germany (Agency Ex. 5 and 8). On May 27, 1988, Schaaf ordered the system from ICEX (Agency Ex. 3). The system was shipped to Schaaf on July 28, 1988. It was consigned to Awitex (Agency Ex. 4). During this period the VAX system was classified under ECCN 1505A and would have required Department of Commerce reexport authorization from West Germany to the United Arab Emirates. There was a presumption of approval for such an export (Agency Ex. 9).

Financing arrangements for the system appear to have been initiated on May 3, 1988. On that date an irrevocable letter of credit (number IMP/22107/SH/88 covering "electrical control devices for a pump station as per contract no. SL/UG/TR 58550/05-87") was opened in favor of Alutrade Ltd., Nicosia, Cyprus by Investment Bank for Trade, Sharjah, United Arab Emirates for the account of Universal Group for General Trading, Sharjah, United Arab Emirates (Agency's Submission on the Record at 3).

This letter of credit was amended on May 28, 1988 by credit document No. 25-390/ZG389 issued by Swiss Bank Corporation, Zug, Switzerland, naming Alutrade as the applicant and Respondent as beneficiary in the amount of 1,900,000 West German marks (DM) (Agency Ex. 2).

On June 8, 1988, Respondent amended the Letter of Credit by adding a description of the VAX 8550 computer system destined for delivery to the

¹ The Act expired on September 30, 1990. Executive Order 12730 (55 FR 40373 (1990)) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701-1706 (Supp. 1990)).

² Reiner Schaaf, individually and doing business as Awitex and Digitex, is the subject of a separate Charging Letter, also dated June 28, 1990, which is based on the same facts and circumstances as those alleged here.

United Arab Emirates (Agency Ex. 10). The amendment, which is signed by Respondent, names both Digitex and Respondent as parties and references the previous version of the letter of credit (no. 25.390/ZG/389). On July 26, 1988, the Letter of Credit was amended for a third time. These amendments, which stated that the shipment was "for the account of Alexander Kovar": 1. Named the United Arab Emirates as the final destination of the system; 2. called for the system to be shipped from West Germany to the United Arab Emirates rather than from Cyprus; 3. extended the shipment date to August 8, 1988; and, 4. named Digitex as a beneficiary for the amount of 1,150,000 DM (Agency Ex. 11).

Finally, Respondent signed a commercial invoice attesting that the "electronical [sic] control devices for a pump station as per contract No. SL-UG/TR 58550/05-87" were of "U.S.C. origin . . . and are not of Israeli origin nor Israeli production and contain no Israeli materials" (Agency Ex. 12). The contract number recited in the commercial invoice is the same one that appears in the original, May 3, letter of credit.

Discussion

The Agency first alleges that Respondent conspired with Schaaf, individually and doing business as Awitex and Digitex, to reexport the VAX system from West Germany to United Arab Emirates without authorization from the Agency as required under § 774.1 of the Regulations. The facts, as presented by the Agency and not contradicted by Respondent, show that Schaaf informed the computer distributor, ICEX, that the end user was Telega in West Germany, despite Schaaf's knowledge that the system was to be reexported to United Arab Emirates.

From the evidence submitted by the Agency, Respondent's role begins in May 1988, when his name appears as beneficiary on a letter of credit that is subsequently linked to the shipment of the VAX from West Germany to the United Arab Emirates. The Link is established by Respondent's June 6, 1988 amendment to the letter of credit where he adds a description of the VAX system and names both himself and Schaaf as parties. His second amendment to the letter of credit in August 8, 1988 served to reinforce his role.

Respondent does not controvert either his participation in processing the letter of credit or his connection to Schaaf. Regarding the letter of credit, he states, "The fact of the existence [sic] of a letter of credit does not prove that the deal

happened. This letter of credit was not used, it expired unused." Regarding Schaaf, he states, "It was never my duty to apply for a reexport license [sic]. It was Mr. Schaaf's [sic] duty and he always confirmed, that he has to and will cover [sic] this activity".

Thus, Respondent's statements confirm the evidence presented by the Agency showing that Respondent participated in the reexport from West Germany to the United Arab Emirates of equipment obtained by Schaaf in the United States. Respondent's attestation in the commercial invoice that the equipment was of United States and not Israeli origin, in addition to letter of credit amendments naming both Respondent and Schaaf as parties to the transaction, support the conclusion that he was involved in a conspiracy to bring about an unauthorized reexport of the VAX to the United Arab Emirates.

By so conspiring, Respondent violated § 787.3(b) of the Regulations. Whether or not the letter of credit was used is not essential. It is the agreement among the participants and their knowledge that counts. Nor is it relevant whether Respondent had knowledge of all details of the transaction or participated in every phase of the scheme. See, e.g., *United States v. Carter*, 760 F.2d 1568 (11th Cir. 1985).

The Agency asserts that by twice amending the letter of credit to facilitate the financing of or payment for the VAX 8550 computer system in connection with its unauthorized reexport from West Germany to the United Arab Emirates, and by signing a required commercial invoice containing a standard Arab League Israeli boycott clause, Respondent acted to aid and abet an unlawful intended reexport of the system in violation of § 787.2 of the Regulations. The Agency's submission and evidence supports the second charge.

Conclusion

I conclude that the evidence presented by Agency Counsel supports the conclusion that Respondent actively participated in a conspiracy to reexport U.S.-origin computer equipment from West Germany to the United Arab Emirates, without the required export license, in violation of § 787.3(b) of the Regulations. By aiding and abetting an unlawful intended reexport of the system, he also committed a violation of § 787.2 of the Regulations.

However, in the related proceeding against Schaaf, Agency Counsel has reached a settlement agreement wherein Schaaf will pay \$50,000 and be denied export privileges for one year (two years denial, with one year suspended). The

disparity in penalties is unconscionable. Particularly since the culpability of these separate parties is almost identical based on the facts of record. It appears that Schaaf would be allowed to buy significant relief from denied party status, whereas Kovar is to be denied for 20 years. An exorbitant price for him to pay for pursuing of administrative adjudication.

Furthermore, the stated end use of the product, i.e., as an electrical control device for an oil pumping station, does not appear to threaten this country's national security. There is no allegation in the submissions that an end use other than that specified was contemplated. In all likelihood, a license to reexport the equipment to the United Arab Emirates would have been granted had Schaaf or Telega applied for one. Agency exhibit 9 indicates that there is a presumption of approval for such authorization.

For these reasons, the violations committed by Respondent warrant significantly less than the 20-year sanction proposed by the Agency.

Order

I. For a period of 3 years from the date of the final Agency action, Respondent, Alexander Kovar, individually and doing business as CAE Services, Loewengasse 2A, A-1030 Vienna, Austria and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

II. Commencing one year from the date that this Order becomes effective, the denial of export privileges set forth above shall be suspended, in accordance with § 788.16 of the Regulations, for the remainder of the three year period set forth in paragraph I above, and shall be remitted at the end of such three year period without further action, provided that Respondent has committed no further violations of the Act, the Regulations, or the final Order entered in this proceeding. During the two year suspension period, Respondent may participate in transactions involving the export of the U.S.-origin commodities or technical data from the United States or abroad in accordance with the requirements of the Act and the Regulations. The provisions of paragraphs III, V, and VI are also suspended during the two-year suspension period.

III. Participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to participation:

(i) As a party or as a representative of a party to a validated or general export license application;

(ii) In preparing or filing any export license application or request for reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data.

Such denial of export privileges shall extend to those commodities and technical data which are subject to the Act and the Regulations.

IV. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

V. All outstanding individual validated export licenses in which Respondent(s) appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent(s)'s privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

VI. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related person, or whereby any Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(i) Apply for, obtain, transfer, or use any license, Shipper's Export

Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any Respondent or related person denied export privileges, or

(ii) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

VII. This Order as affirmed or modified shall become effective upon entry of the Secretary's final action in this proceeding pursuant to the Act [50 U.S.C.A. app. 2412(c)(1)].

To be considered in the 30 day statutory review process which is mandated by section 13(c) of the Act, submissions must be received in the Office of the Under Secretary for Export Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW., room 3898B, Washington, DC, 20230, within 12 days. Replies to the other party's submission are to be made within the following 8 days. 15 CFR 788.23(b), 50 FR 53134 (1985). Pursuant to section 13(c)(3) of the Act, the order of the final order of the Under Secretary may be appealed to the U.S. Court of Appeals for the District of Columbia within 15 days of its issuance.

Dated: April 29, 1991.

Hugh J. Dolan,
Administrative Law Judge.

[FR Doc. 91-13194 Filed 6-4-91; 8:45 am]

BILLING CODE 3510-DT-M

[Docket Nos. 0110-01, 0110-02, 0109-01, 0109-01, 0109-03]

Reiner Schaaf, Individually and Doing Business as Awitex and Digitex, Respondent; Export Privileges

Order

On April 29, 1991, the Administrative Law Judge entered his Recommended Decision and Order in the matter referred to above. The Decision and Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final actions. The Decision and Order affirms a Consent agreement between the parties to settle the matter. I am modifying the Order in one respect. The first sentence of Paragraph II of the Consent Agreement is modified to read in full as follows:

II. The denial of export privileges set forth in Paragraph I above shall be suspended, in accordance with § 788.16 of the Regulations, and shall be terminated at the end of the two year period, provided that during the two year period Respondent has committed

no violation of the Act, the Regulations, or the final Order entered in this proceeding, provided further that there is no outstanding charging letter issued by the Agency during the period of suspension charging the Respondent with such a violation.

In all other respects, having examined the record and based on the facts in the case, I hereby affirm the Decision and Order of the Administrative Law Judge.

This constitutes final agency action in this matter.

Dated: May 29, 1991.

Joan McIntee,
Acting Under Secretary for Export Administration.

Appearance for Respondent: Werner Hein, Esq., Wilkinson, Barker, Knauer and Quinn, 1735 New York Avenue NW., Washington, DC 20006.

Appearance for Agency: Louis K. Rothberg, Esq., Office of Chief Counsel for Export Administration, U.S. Department of Commerce, 14th & Constitution Ave. NW., Washington, DC 20230.

Preliminary Statement

This proceeding against the above named Respondents commenced with the issuance and service on this Tribunal of a charging letter dated June 26, 1990, by the Office of Export Enforcement (Agency), U.S. Department of Commerce. The charging letter was issued under the authority of the Export Administration Act of 1979 (50 U.S.C.A. app. §§ 2401-2420 as amended [Act])¹ and the Export Administration Regulations CFR part 788 (Regulations).

The charging letter alleges that between April and September 1988 Respondent and others conspired to acquire a computer representing that it was to be exported for end use in West Germany, intending at the time to reexport to another country without the required reexport determination. It is separately charged that the above scheme was effected by making a false and misleading statement and misrepresentation respecting the ultimate destination.

Respondent answered the charging letter acknowledging participation in the purchase and export to Germany of the computer but denied participation in any conspiracy or violation of the Export Administration Act. It is asserted that the computer was sold to another entity in West Germany and that it and the U.S. distributor were informed and

¹ The Act expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701-1706 (Supp. 1990)).

aware of the requirements for an export license for the planned reexport.²

Discussion

Following extensive pre-hearing exchanges and discussions over the past six months between Agency Counsel and the Respondent, the parties have submitted a Consent Settlement pursuant to § 788.17(a) of the Regulations. It acknowledges that: in the administrative proceeding Respondent Schaaf was charged with violating §§ 787.3(b) and 787.5 of the Regulations in that:

Between April 1988 and September 1988, Schaaf conspired with Alexander Kovar, individually and doing business as CAE Services, and others, to acquire a U.S.-origin VAX 8550 computer for reexport to the United Arab Emirates without obtaining from United States Department of Commerce, the reexport authorization required by the Regulations and further, in connection with the shipment of the computer system, Schaaf made a false representation that West Germany was the country of ultimate end use.

The parties have stipulated and agreed that Respondent neither admits nor denies the allegations contained in the charging letter; that the Agency will settle and dispose on behalf of both parties all of the allegations made in the charging letter and waive all rights to refund the civil penalty imposed as well as all the agreements stipulating jurisdiction; that Respondent agreed to be bound by the Secretarial order implementing the Consent Agreement; that Respondent will provide for payment of a civil penalty of \$50,000 in installments; and that Respondent will be denied export privileges for a period of two years all of which is suspended. The parties further agree that the charging letter, consent agreement and order will be publically disclosed; that the agreement is for settlement purposes only; that it binds only the parties thereto that may not be varied by external agreements, understanding or representation and that it becomes effective only upon entry of the final Order of the Under Secretary.

The Consent Agreement negotiated by the parties, to settle this matter, is transmitted herewith. Those terms are implemented by the Order set forth below.

Order

I. For a period of 2 years from the date of the final Agency actions, Respondent Reiner Schaaf, individually and doing business as

Awitex
and also doing business as
Digitex
with address at
Geigelsteinweg 7, 8031 Maisach, West
Germany
and
Ohmstrasse 12, 8047 Karsfeld, West
Germany
and
Ganghoferstrasse 31, 8031 Maisach,
West Germany

and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

II. The denial of export privileges set forth in Paragraph I above shall be suspended, in accordance with § 788.16 of the Regulations, and shall be terminated at the end of the two year period, provided that Respondent has committed no violation of the Act, the Regulations, or the final Order entered in this proceeding. During the two-year suspension period, Respondent may participate in transactions involving the export of U.S.-origin commodities or technical data from the United States or abroad in accordance with the requirements of the Act and the Regulations. The provisions of Paragraphs IV, VI, and VII of this Order shall also be suspended during such two-period.

III. A civil penalty in the amount of \$50,000 is assessed against Respondent Schaaf. He shall pay to the Agency the sum of \$10,000 within 30 days from the date of the entry of the final Order and the remaining balance due of \$40,000 shall be paid in four \$10,000 installments each on the following dates: June 1, 1991, September 1, 1991, December 1, 1991 and March 1, 1992. Payment shall be made in the manner specified in the instructions furnished. In the event that Respondent Schaaf fails to make any required payment on or before the date it is due, the entire unpaid balance shall become immediately due and payable in full.

IV. Participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation:

(i) As a party or as a representative of a party to a validated or general export license application;

(ii) In preparing or filing any export license application or request for export authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying out negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data.

Such denial of export privileges shall extend to those commodities and technical data which are subject to the Act and the Regulations.

V. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

VI. All outstanding individual validated export licenses in which Respondent(s) appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent(s)'s privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

VII. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related person, or whereby any Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(i) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any Respondent or related person denied export privileges, or

(ii) Order, buy, receive, use, sell, deliver, store, dispose of, forward,

² The decision in *Kovar, et al.*, of this date, contains a more complete statement of details.

transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

VIII. This Order as affirmed or modified shall become effective upon entry of the Secretary's final action in this proceeding pursuant to the Act (50 U.S.C.A. app. 2412(C)(1)).

Dated: April 29, 1991.

Hugh J. Dolan,

Administrative Law Judge.

To be considered in the 30 day statutory review process which is mandated by section 13(c) of the Act, submissions must be received in the Office of the Under Secretary for Export Administration, U.S. Department of Commerce, 14th & Constitution Ave. NW., room 3898B, Washington, DC, 20230, within 12 days. Replies to the other party's submission are to be made within the following 8 days. 15 CFR 788.23(b), 50 FR 53134 (1985). Pursuant to section 13(c)(3) of the Act, the order of the final order of the Under Secretary may be appealed to the U.S. Court of Appeals for the District of Columbia within 15 days of its issuance.

[FR Doc. 91-13197 Filed 6-4-91; 8:45 am]

BILLING CODE 3510-DT-M

[Docket Nos. 01111-01, 0111-02]

Aime Richardt, Individually and Doing Business as Les Accessoires Scientifiques, Respondents; Export Privileges

Summary

Pursuant to the April 29, 1991, Decision and Order of the Administrative Law Judge ("ALJ"), which Decision and Order is hereby affirmed in part and modified in part in accordance with section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. sections 2401-2420 (1991)) ("the Act")¹, Aime Richardt is denied export privileges for a period of three months from the date hereof. Les Accessoires Scientifiques is denied export privileges for a period of three years from the date hereof and will pay a civil penalty of \$15,000 within 30 days hereof. The denial of export privileges shall be suspended, in accordance with § 788.16 of the Regulations, and shall be terminated without further action at the end of that period provided Respondents have

committed no violations of the Act, the Regulations, or the final Order entered in this proceeding, and provided further that there is no outstanding charging letter issued by the Agency during the period of suspension charging Respondent with such a violation.

Background

On July 3, 1990, the Office of Export Administration, U.S. Department of Commerce ("Agency"), issued a charging letter against Aime Richardt, individually and doing business as Les Accessoires Scientifiques ("Respondents"), alleging that, despite being subject to a series of six temporary denial orders Respondents ordered, bought, and received a U.S.-origin ion generator in violation of § 787.4 of the Regulations. Respondents are also separately charged with soliciting the commission of exports while denied export privileges in violation of § 787.3(a) of the Regulations. Respondents answered the charging letter acknowledging participation in the purchase and export of the ion generator, but asserted that the value and nature of the spare part involved rendered it a *de minimis* transaction. Subsequently, the Agency and Respondents entered into a consent agreement and submitted the consent agreement to the ALJ for his consideration. The ALJ approved the consent agreement on April 29, 1991, finding its terms to be reasonable. Nevertheless, the ALJ proposed additional language regarding the suspension of a portion of the denial period imposed. The Order of the ALJ provides that:

Commencing one year from the date that this Order becomes effective, the denial of export privileges set forth above shall be suspended, in accordance with § 788.16 of the Regulations, and will be remitted without further action at the end of that period provided Respondent has committed no violations of the Act, the Regulations, or the final Order entered in this proceeding.

On May 10, 1991, in accordance with § 788.23 of the Regulations, the Agency filed its Initial Submission which asks that this language be modified to provide as follows: For Richardt:

As authorized by § 788.16(c) of the Regulations, the denial period herein provided for against Aime Richardt shall be suspended for a period of three months beginning from the date of entry of this Order, and shall thereafter be waived, provided that, during the period of suspension, Aime Richardt has committed no violation of the Act of any regulation, order or license issued under the Act.

For Les Accessoires Scientifiques:

As authorized by § 788.16(C) of the Regulations, the denial period herein provided for against Les Accessoires Scientifiques shall be suspended for a period of two years beginning one year from the date of entry of this Order, and shall thereafter be waived, provided that, during the period of suspension, Les Accessoires Scientifiques has committed no violation of the Act or any regulation, order or license issued under the Act.

The Agency argued that the language proposed by the ALJ "unduly limits the ability of the Agency to move to revoke any suspended portion of the denial period in the event that respondents commit a violation during the suspension period." The Respondents objected to this language because a specific time limit is not stated in which the Department must act to revoke a suspension for a breach of a probationary term that occurred during the period of suspension. Respondent's replied:

[t]o the extent the Department seeks some open-ended period during which it can pursue unilateral reinstatement of suspended sanctions (which presumably would be based on conduct during the suspension period which otherwise would constitute a violation), without giving Respondents the requisite due process protection guaranteed them by the Act and the Regulations, Respondents respectfully object.

Respondents therefore requested that the ALJ's Decision and Order be affirmed without modification. In a Final Submission, the Department reiterated its position, adding to the argument only the statement that "[i]mposing a specific time limit will seriously impede the ability of the Department to enforce the terms of probation and revoke the suspensions".

Discussion

On April 29, 1991, the ALJ issued his Decision and Order in this proceeding approving the consent agreement as negotiated by the parties. However, the ALJ proposed in paragraph III, regarding the suspension of a portion of the denial imposed against Richardt: "The denial of export privileges * * * will be remitted without further action at the end of that period * * *". The ALJ proposed the same for Les Accessoires Scientifiques in paragraph V: "The period of denial * * * will be remitted at the end of that period * * *".

I agree with the Agency that the ALJ's Order may unduly limit the ability of the Department to take action after the expiration of the suspension period. At the same time, giving the Agency an open-ended period of time to act following the expiration of the suspension period would unfairly

¹ The Act expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701-1706 (1991)).

prejudice the Respondent's due process protections. In order to balance these interests, I believe that the ALJ's recommended Order should be modified to provide that the denial of export privileges shall be suspended, and will be terminated without further action at the end of that period provided Respondents have committed no violations of the Act, the Regulations, or the final Order entered in this proceeding, and provided further that there is no outstanding charging letter issued by the Agency during the period of suspension charging Respondents with such a violation. Under this latter provision, the Agency would not be required to establish the violation within the suspension period, but would need to have reason to believe Respondents had committed a violation sufficient to justify the issuance of a charging letter. 15 CFR 788.4(a).

Order

I. The ALJ's Decision to affirm the Consent Agreement, as negotiated by the parties, is hereby affirmed, striking that portion of the ALJ's Decision and Order which states that the denial of export privileges will be remitted without further action at the end of the period of suspension.²

II. The ALJ's Order is modified to read as follows:

Respondent Les Accessoires Scientifiques is assessed a civil penalty of \$15,000, which shall be fully paid within 30 days from the date of this Order. As authorized by section 11(d) of the Act, the timely payment of the penalty is a condition of the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted to Les Accessoires Scientifiques. Failure to make the timely payment of the civil penalty shall result in a denial of all of Les Accessoires Scientifiques export privileges for a period of one year from the date of this Order.

III. For a period of 3 years from the date of this Order, Respondent, Les Accessoires Scientifiques, BP 1 Conflans-Sur-Lanterne, 70800 St. Loup Sur Semouse, France, and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or

technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

IV. Commencing one year from the date this Order becomes effective, the denial of export privileges for Les Accessoires Scientifiques shall be suspended for two years, in accordance with § 788.16(c) of the Regulations, and shall be terminated without further action at the end of that period provided Les Accessoires Scientifiques has committed no violations of the Act, the Regulations or the final Order entered in this proceeding, and provided further that there is no outstanding charging letter issued by the Agency during the period of suspension charging Les Accessoires Scientifiques with such a violation. During the two-year suspension period, Les Accessoires Scientifiques may participate in transactions involving the export of U.S.-origin commodities or technical data from the United States or abroad in accordance with the requirements of the Act and the Regulations. The provisions of paragraphs VII, IX, and X of this Order will also be suspended.

V. For a period of three months from the date of this Order, Respondent, Aime Richardt, c/o Les Accessoires Scientifiques, BP 1 Conflans-Sur-Lanterne, 70800 St. Loup Sur Semouse, France, and all successors, assignees, officers, partners, representatives, agents, and employees, hereby are denied all privileges or participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

VI. The denial of export privileges shall be suspended for three months, in accordance with § 788.16(c) of the Regulations, and shall be terminated without further action at the end of that period provided Aime Richardt has committed no violations of the Act, the Regulations, or the final Order entered in this proceeding and provided further that there is no outstanding charging letter issued by the Agency during the period of suspension charging Aime Richardt with such a violation. During the three month suspension period, Aime Richardt may participate in transactions involving the export of U.S.-origin commodities or technical data from the United States or abroad in accordance with the requirements of the Act and the Regulations. The provisions of paragraphs VII, IX, and X of this Order are also suspended.

VII. Participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to participation:

(i) As a party or as a representative of a party to a validated or general export license application;

(ii) In preparing or filing any export license application or request for reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license of the export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing, of in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data.

Such denial of export privileges shall extend to those commodities and technical data which are subject to the Act and the Regulations.

VIII. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Respondent(s) is now or hereafter may be related by affiliation, ownership, position of responsibility, or other connection in the conduct of trade or related services.

IX. All outstanding individual validated export licenses in which Respondent(s) appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent(s)'s privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

X. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization for the Office of Export Licensing, shall, with respect to commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related person, or whereby any Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

² In order to avoid any confusion regarding what terms of the ALJ's Order apply, I have set forth herein a complete order in this case. Accordingly, since this order constitutes the final agency order in this proceeding, and since it does not incorporate the ALJ's Recommended Order, the latter is not being published in the Federal Register.

(i) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any Respondent or related person denied export privileges, or

(ii) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

This constitutes the final Agency action in this matter.

Dated: May 29, 1991.

Joan M. McEntee,
Acting Under Secretary for Export
Administration.

Decision and Order on Consent

Appearance for Respondent: Mr. Richard L. Cys, Esq., Davis, Wright, Tremaine, 1752 N Street NW., Suite 800, Washington, DC 20036.

Appearance for Agency: Louis K. Rothberg, Esq., Office of Chief Counsel for Export Administration, U.S. Department of Commerce, Room H-3339, 14th & Constitution Ave. NW., Washington, DC 20230.

Preliminary Statement

This proceeding against Respondent Aime Richardt individually and doing business as Les Accessoires Scientifiques was initiated with the issuance of a charging letter dated July 3, 1990 by the Office of Export Enforcement ("the Agency"), Bureau of Export Administration, U.S. Department of Commerce. The charging letter was issued under the authority of the Export Administration Act of 1979 (50 U.S.C.A. app. 2401-2420), as amended ("the Act")¹ and the Export Administration Regulations ("the Regulations").

The charging letter alleges that, despite being subject to a series of six temporary denial orders, Respondent Richardt, acting on behalf of Respondent Les Accessoires Scientifiques, ordered, bought, and received a U.S.-origin ion generator in violation of § 787.4 of the Regulations. Respondents are also separately charged with soliciting the commission of exports while denied export privileges in violation of § 787.3(a) of the Regulations.

Respondents answered the charging letter acknowledging participation in the purchase and export of the ion generator, but asserted that the value and nature of the spare part involved rendered it a *de minimis* transaction. In that submission, they denied causing or soliciting General Ionex to export to a denied party.²

Discussion

The parties have submitted a Consent Agreement pursuant to § 788.17 (a) of the Regulations. It acknowledges that: In the administrative proceeding Respondents were charged with violating §§ 787.3(a) and 787.4 of the Regulations in that: 1. While Respondents were "persons denied export privileges", as defined in § 787.12(b) of the Regulations, they ordered, bought and received U.S.-origin commodities, and 2. between April 1986 and April 1987, Respondents solicited the commission of, and attempted to bring about violations of the Act and the Regulations.

The parties have stipulated and agreed that Respondent Les Accessoires Scientifiques will pay a civil penalty of \$15,000 within 30 days of entry of a final Order. The Company is also to be denied export privileges for three years from entry of the final order, the latter two years of which will be automatically suspended with provision for automatic remission. Respondent Aime Richardt will be denied export privileges for three months. However, the three month denial period is to be suspended with provision for automatic remission.

The conditions that apply to Respondent Richardt render the denial period for Respondent Les Accessoires Scientifiques meaningless. Under these terms, Respondent Richardt may simply export in his own name. Further, since Respondent Les Accessoires Scientifiques is acknowledged to be

¹ No further explanation of General Ionex's participation appears in the record. Nor does the record reflect the disposition of the investigation respecting La Physique Applique Industrie, the principal and apparently the parent company named in the series of temporary denial orders. It is also noted that Respondent Richardt was not named *in propria persona* in those orders. Nor has he been the subject of a related person determination pursuant to 15 CFR 788.3(c) by this Tribunal.

The inference to be drawn from the overall circumstances presented here is that Respondent Richardt was in fact a party related to one or both of the above named companies cited in the temporary denial orders. The answer and the consent agreement appear to affirm that conclusion. Absent some specific finding or showing, it is difficult to ascertain how an individual or company not so named in a denial order should be considered as "denied" to a third party customer, supplier, or merchant dealing with such an individual.

wholly owned by another corporation, transactions could also be handled in that company's name.

The parties further agree that the Act and regulations confer jurisdiction with respect to the matters identified in the charging letter; and, that they wish to settle and dispose of all allegations made in the Charging Letter by the Consent Agreement and agree to be bound by the final Order when entered.

While the compromise effected here may appear to reward rather than sanction the violators³ with the ebb of the cold war and the perceived imminent demise of the particular controls involved, this disposition appears to be a pragmatically acceptable resolution.

Order

I. Respondent Les Accessoires Scientifiques is assessed a civil penalty of \$15,000, which shall be fully paid within 30 days from the date of final Agency action. As authorized by § 11(d) of the Act, the timely payment of the penalty is a condition of the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted to Les Accessoires Scientifiques. Failure to make the timely payment of the civil penalty shall result in a denial of all of Les Accessoires Scientifiques export privileges for a period of one year from the date this Order becomes effective.

II. For a period of 3 years from the date of the final Agency action, Respondent, Les Accessoires Scientifiques, BP 1 Conflans-Sur-Lantern, 70800 St. Loup Sur Semouse, France and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

III. commencing one year from the date that this Order becomes effective, the denial or export privileges set forth above shall be suspended, in accordance with § 788.16 of the Regulations, and will be remitted without further action at the end of that

² The six consecutive temporary denial orders were issued during 1986 and 1987 to inhibit deliberately covert and imminent additional violations which would constitute a continued serious threat to national security by Respondent Les Accessoires Scientifiques. They were published as follows: 51 FR 15955 (1986), 51 FR 23256 (1986), 51 FR 30688 (1986), 51 FR 37776 (1986), 51 FR 46889 (1986), and 52 FR 5806 (1987).

¹ The Act expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701-1706 (Supp. 1990)).

period provided Respondent has committed no violations of the Act, the Regulations, or the final Order entered in this proceeding. During the two-year suspension period, respondent may participate in transactions involving the export of U.S.-origin commodities or technical data from the United States or abroad in accordance with the requirements of the Act and the Regulations. The provisions of paragraphs VI, VIII, and IX of this Order will also be suspended.

IV. For a period of three months from the date of the final Agency action, Respondent, Aime Richardt, c/o Les Accessoires Scientifiques, BP 1 Conflans-Sur-Lanterne, 70800 St. Loup Sur Semouse, France, and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly, or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the Regulations.

V. The period of denial set forth above is hereby suspended for three months from the date on which this Order becomes final, in accordance with § 788.16(c) of the Regulations, and will be remitted at the end of that period provided Respondent has committed no violations of the Act, the Regulations, or the final Order entered in this proceeding. During the three month suspension period, Respondent may participate in transactions involving the export of U.S.-origin commodities or technical data from the United States or abroad in accordance with the requirements of the Act and the Regulations. The provisions of paragraphs VI, VIII, and IX of this Order are also suspended.

VI. Participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation:

(i) As a party or as a representative of a party to a validated or general export license application;

(ii) In preparing or filing any export license application or request for reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data.

Such denial of export privileges shall extend to those commodities and technical data which are subject to the Act and the Regulations.

VII. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Respondent(s) is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

VIII. All outstanding individual validated export licenses in which Respondent(s) appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent(s)'s privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

IX. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing, shall, with respect to commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related person, or whereby any Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(i) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any Respondent or related person denied export privileges, or

(ii) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

X. This Order as affirmed or modified shall become effective upon entry of the Secretary's final action in this proceeding pursuant to the Act (50 U.S.C.A. app. 2412(c)(1)).

Dated: April 29, 1991.

Hugh J. Dolan,

Administrative Law Judge.

To be considered in the 30 day statutory review process which is mandated by section 13(c) of the Act, submissions must be received in the Office of the Under Secretary for Export Administration, U.S. Department of Commerce, 14th & Constitution Ave. NW., Room 3898B, Washington, DC, 20230, within 12 days. Replies to the other party's submission are to be made within the following 8 days. 15 CFR 788.23(b), 50 FR 53134 (1985). Pursuant to section 13(c)(3) of the Act, the order of the final order of the Under Secretary may be appealed to the U.S. Court of Appeals for the District of Columbia within 15 days of its issuance.

[FR Doc. 91-13213 Filed 6-4-91; 8:45 am]

BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Docket 30-91]

Foreign-Trade Zone 50—Long Beach, California; Application for Subzone Datatape Tape Recording Equipment Plant, Pasadena, CA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Board of Harbor Commissioners of the City of Long Beach, California, grantee of FTZ 50, requesting special-purpose subzone status for the tape recording equipment manufacturing plant of Datatape Incorporated (Datatape) (subsidiary of the Eastman Kodak Company) located in Pasadena, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on May 24, 1991.

The Datatape plant (17 acres) is located at 360 Sierra Madre Villa Avenue in Pasadena, California, some 15 miles northeast of Los Angeles. The facility employs 660 persons and is used to manufacture magnetic tape recording equipment including rotary-head digital recorders, flight recorders, high density digital cassette tape recorders, and computer data mass-storage systems. Some 18 percent of its components are foreign sourced, including tape transports, cassette recorders, recorder parts and accessories, magnetic tape, switching apparatus, printed circuit boards, electric motors, and fasteners. Currently, 13 percent of the finished equipment is exported.

Zone procedures would exempt Datatape from Customs duty payments on the foreign components used in equipment produced for export. On sales to the U.S. Department of Defense (DOD), the company would be able to enter the products duty free under the provisions of Harmonized Tariff System Chapter 98, Subchapter VIII. On other domestic sales, the company would be able to choose the duty rate that applies to finished tape recording equipment (3.7 percent). The duty rates on most components range from 3.7 to 3.9 percent. The application indicates that zone savings will help improve Datatape's international competitiveness and increase export sales.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; John Heinrich, District Director, U.S. Customs Service, Pacific Region, Room 2017, 300 South Ferry Street, Terminal Island, San Pedro, California 90731; and, Colonel Charles S. Thomas, District Engineer, U.S. Army Engineer District Los Angeles, P.O. Box 2711, Los Angeles, California 90053-2325.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before July 22, 1991.

A copy of the application is available for public inspection at each of the following locations:

Office of the District Director, U.S. Department of Commerce, Room 800, 11777 San Vicente Blvd., Los Angeles, CA 90049.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Room 3716, Washington, DC 20230.

Dated: May 30, 1991.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 91-13241 Filed 6-4-91; 8:45 am]

BILLING CODE 3510-DS-M

[Docket 28-91]

Foreign-Trade Zone 176—Rockford, IL; Application for Subzone Milk Specialties Company, Animal Feed Manufacturing Plant, Dundee, IL

An application has been submitted to the Foreign-Trade Zones Board (the

Board) by the Greater Rockford Airport Authority, grantee of FTZ 176, requesting special-purpose subzone status for the animal feed manufacturing plant of Milk Specialties Company (MSC), located in Dundee, Illinois. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 18, 1991.

The MSC plant (2.5 acres/66,200 sq. ft.) is located at 310 River Street in Dundee (northern Kane County), some 45 miles southeast of the Greater Rockford Airport in Rockford, Illinois. The facility produces milk-based animal feeds by blending dried milk, sugar, soy flour, animal fats, lecithin, proteins and oils.

The company is requesting the use of zone procedures so that it can use ex-quota foreign sugar and dried milk to produce animal feed for export. Zone procedures for export manufacturing would also exempt the company from Customs duty payments on the foreign milk and sugar as well as other foreign ingredients, such as casein, whey protein concentrate, dried whey, and coconut oil. Zone procedures would not be used for manufacturing products destined for the domestic market. The applicant indicates that subzone status would help improve MSC's competitiveness in Asian and South American markets.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Richard Roster, District Director, U.S. Customs Service, North Central Region, 610 South Canal Street, Chicago, IL 60607; and, Colonel John R. Brown, District Engineer, U.S. Army Engineer District Rock Island, P.O. Box 2004, Clock Tower Building, Rock Island, IL 61204-2004.

Comments concerning the proposed foreign-trade subzone are invited from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before July 18, 1991.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Customs Service, Greater Rockford Airport, 4 Airport Circle, Rockford, Illinois 61109.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S.

Department of Commerce, room 3716, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: May 28, 1991.

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 91-13242 Filed 6-4-91; 8:45 am]

BILLING CODE 3510-DS-M

[Docket 29-91]

Foreign-Trade Zone 43—Battle Creek, MI; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Battle Creek, Michigan, grantee of FTZ 43, requesting authority to expand its zone to include a site in Zeeland Township, Ottawa County, Michigan, adjacent to the Grand Rapids Customs port of entry, which would be operated by TLC Warehousing Services, Inc. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on May 21, 1991.

FTZ 43 was approved on October 19, 1978 (Board Order 138, 43 FR 50233, 10/27/78), and expanded on December 27, 1990 (Board Order 496, 56 FR 675, 1/8/91). The present zone (1,824 acres) is located within the Fort Custer Industrial Park in Battle Creek. An application is already pending which involves a site operated by TLC Warehousing Services, Inc. (TLC), in Texas Township, Kalamazoo County, some 25 miles west of Battle Creek (FTZ Docket 48-90, 55 FR 51306, 12/13/90).

This application requests authority to further expand FTZ 43 to include another site (22 acres) operated by TLC, which is located at 8250 Logistic Drive, Zeeland Township, Ottawa County, Michigan, some 20 miles southwest of Grand Rapids. No manufacturing authority is being sought at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. DaPonte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; William L. Morandini, District Director, U.S. Customs Service, North Central Region, Patrick V. McNamara Building, 477 Michigan Avenue, Detroit, Michigan 48266-2568; and Colonel John D. Glass, District Engineer, U.S. Army Engineer

District Detroit, P.O. Box 1027, Detroit, Michigan 48231-1037.

Comments concerning the proposed expansion are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before July 19, 1991.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 4950 West Dickman Road, Battle Creek, Michigan 49106.
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., room 3716, Washington, DC 20230.

Dated: May 28, 1991.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 91-13243 Filed 6-4-91; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Antidumping or Countervailing Duty Order Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

BACKGROUND: Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with section 353.22 or 355.22 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

OPPORTUNITY TO REQUEST A REVIEW: Not later than June 30, 1991, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in June for the following periods:

Antidumping duty proceedings	Period
Belgium: Sugar (A-423-077).....	06/01/90-05/31/91
Canada: Oil Country Tubular Goods (A-122-506).....	06/01/90-05/31/91
Canada: Red Raspberries (A-122-401).....	06/01/90-05/31/91
France: Large Power Transformers (A-427-030).....	06/01/90-05/31/91
France: Sugar (A-427-078).....	06/01/90-05/31/91
Italy: Large Power Transformers (A-475-031).....	06/01/90-05/31/91
Italy: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured (A-475-802).....	06/01/90-05/31/91
Japan: Butadiene Acrylonitrile Copolymer Synthetic Rubber (A-588-706).....	06/01/90-05/31/91
Japan: Fishnetting of Man-Made Fibers (A-588-029).....	06/01/90-05/31/91
Japan: Forklift Trucks (A-588-703).....	06/01/90-05/31/91
Japan: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured (A-588-807).....	06/01/90-05/31/91
Japan: Large Power Transformers (A-588-032).....	06/01/90-05/31/91
Japan: 64K DRAMS (A-588-503).....	06/01/90-05/31/91
Romania: Tapered Roller Bearings and Parts Thereof, Finished and Unfinished (A-485-602).....	06/01/90-05/31/91
Singapore: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured (A-559-802).....	06/01/90-05/31/91
Sweden: Stainless Steel Plated (A-401-040).....	06/01/90-05/31/91
Taiwan: Carbon Steel Plate (A-583-080).....	06/01/90-05/31/91
Taiwan: Fireplace Mesh Panels (A-583-003).....	06/01/90-05/31/91
Taiwan: Oil Country Tubular Goods (A-583-505).....	06/01/90-05/31/91
The Hungarian People's Republic: Tapered Roller Bearing and Parts Thereof, Finished and (A-437-601).....	06/01/90-05/31/91
The People's Republic of China: Tapered Roller Bearing and Parts Thereof, Finished and Unfinished (A-570-601).....	06/01/90-05/31/91
The Federal Republic of Germany: Barium Carbonate (A-428-061).....	06/01/90-05/31/91
The Federal Republic of Germany: Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured (A-428-802).....	06/01/90-05/31/91
The Federal Republic of Germany: Sugar, (A-428-082).....	06/01/90-05/31/91

In accordance with § 353.22(a) of the Commerce regulations, an interested party may request in writing that the Secretary conduct an administrative review of specified individual producers or resellers covered by an order, if the requesting person states why the person desires the Secretary to review those particular producers or resellers. If the interested party intends for the Secretary to review sales of merchandise by a reseller (or a producer if that producer also resells merchandise from other suppliers) which was produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically which reseller(s) and which countries of origin for each reseller the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230. Further, in accordance with section 353.31 of the Commerce Regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the *Federal Register* a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review", for requests received by June 30, 1991.

If the Department does not receive by June 30, 1991 a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will

instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: May 24, 1991.

Joseph A. Spetrini,
Deputy Assistant Secretary for Compliance.

[FR Doc. 91-13247 Filed 6-4-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-807]

Preliminary Determinations of Sales at Less Than Fair Value: Oscillating Fans and Ceiling Fans From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce ("the Department") preliminarily determines that oscillating fans and ceiling fans from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value. If these investigations proceed normally, we will make our final determinations by August 12, 1991.

EFFECTIVE DATE: June 5, 1991.

FOR FURTHER INFORMATION CONTACT: Steven Lim or David Goldberger, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-4067 or (202) 377-4136, respectively.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

We preliminarily determine that imports of oscillating fans and ceiling fans (collectively "fans") from the PRC are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the publication of the notice of initiation on November 27, 1990, (55 FR 49320), the following events have occurred. On December 3, 1990, we sent letters to the Embassy of the PRC and the petitioner, requesting that they address the question of whether the PRC is a nonmarket economy country (NME) relative to the industries under investigation. On December 13, 1990, petitioner responded saying that the PRC is an NME within the meaning of section 771(18) of the Act, and argued that the statute requires a determination based on the entire economy, rather than the characteristics of a particular sector or industry within that economy.

Subsequent to issuing the request for information regarding whether the PRC is an NME, we received entries of appearance on behalf of several oscillating fan and ceiling fan producers

in the PRC. In numerous submissions, the various fan producers and the China Chamber of Commerce of Exporters and Importers of Machinery and Electronics (China Chamber), argued that the oscillating fan and ceiling fan industries in the PRC are not state controlled within the meaning of the statute. Petitioner submitted several rebuttal arguments.

On December 17, 1990, the ITC preliminarily determined that there is a reasonable indication that industries in the United States are being materially injured by reason of imports of oscillating fans and ceiling fans from the PRC (55 FR 53203, December 27, 1990).

For purposes of identifying potential respondents to our antidumping duty questionnaire, on December 21, 1990, the Department issued a survey to interested parties requesting information on producers and exporters of subject merchandise in the PRC.

On January 31, 1991, we issued our antidumping questionnaires to the China Chamber and the other known producers of oscillating fans and ceiling fans in the PRC. We received questionnaire responses and supplemental information from four oscillating fan producers and four ceiling fan producers in February, March, and April 1991. The following four oscillating fan respondents accounted for more than 60 percent of exports of the subject merchandise of the United States during the period of investigation (POI): (1) Esteem Industries Ltd./Holmes Products Corp./HASM Manufacturing Co., Ltd. ("Esteem"); (2) Durable Electrical Metal Factory Ltd./Parawind Ltd./Paragon Industries ("Durable"); (3) Wuxi Electric Fan Factory ("Wuxi"); and (4) Polaray Industrial Corporation/Paragon Industries (China) Inc./Polaray Industrial (Hong Kong) Corporation, Ltd. ("Polaray"). The following four ceiling fan respondents accounted for more than 60 percent of exports to the United States during the POI: (1) CEC Electrical Manufacturing (International) Company, Ltd./CEC Industries (Shenzhen) Ltd./CEC (USA) Texas Group, Inc. ("CEC"); (2) Wing Tat Electric Manufacturing Co., Ltd./China Miles Co., Ltd. ("Wing Tat"); (3) Shell Electric Mfg. (China) Co./SMC Electric Mfg. (Sian Hua) Co./SMC Marketing Corporation ("Shell"); and (4) Xinhui Electric Motor Factory ("Xinhui").

On February 22, 1991, the Department determined that these investigations are extraordinarily complicated and postponed the date of the preliminary determinations until not later than May 29, 1991 (56 FR 8742, March 1, 1991). We determined that these cases are

extraordinarily complicated because: (1) They involve a large number of respondents, most of which are part of complex related entities involving exporters, importers, and/or foreign affiliated companies; and (2) a variety of novel methodological issues have been raised.

On March 4, 1991, petitioner alleged that critical circumstances exist with regard to imports of oscillating fans from the PRC. We requested information from oscillating fan respondents regarding petitioner's allegation of critical circumstances on April 2, 1991.

Separate Rates

In order to determine whether company-specific dumping margins should be calculated in these investigations, we asked respondents to provide information on company ownership and relationships, sources of inputs, manufacturing processes, distribution channels, involvement of trading companies, controls on external trade, profit retention, and other facets of their production and sale of fans. As stated in the Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China ("Sparklers") (56 FR 20588, May 6, 1991), we will issue separate rates if respondents can demonstrate both a *de jure* and *de facto* absence of central control. Evidence supporting, though not requiring, a finding of *de jure* absence of central control would include: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; and (2) any legislative enactments devolving central control of export trading companies. Evidence supporting a finding of *de facto* absence of central control with respect to exports would include: (1) Whether each exporter sets its own export prices independently of the government and other exporters; and (2) whether each exporter can keep the proceeds from its sales.

Based on our analysis of the information provided by each of the respondents, we preliminarily determine that company-specific dumping margins are warranted. The bases for this determination are outlined in a memo to the file dated May 28, 1991.

Scope of the Investigations

Imports covered by these investigations constitute two separate classes or kinds of merchandise: (1) Oscillating fans; and (2) ceiling fans.

Oscillating fans are electric fans that direct a flow of air using a fan blade/motor unit that pivots back and forth on a stationary base ("oscillates").

Oscillating fans incorporate a self-contained electric motor of an output not exceeding 125 watts.

Ceiling fans are electric fans that direct a downward and/or upward flow of air using a fan blade/motor unit. Ceiling fans incorporate a self-contained electric motor of an output not exceeding 125 watts. Ceiling fans are designed for permanent or semi-permanent installation.

Window fans and industrial or commercial ventilator fans are not included in these investigations.

The Harmonized Tariff Schedule (HTS) subheading under which oscillating fans are classified is 8414.51.0090. The HTS subheading under which ceiling fans are classified is 8414.51.0030. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Periods of Investigation

The POI for all respondents in the ceiling fans investigation is May 1, 1990 through October 31, 1990.

On January 11 and 16, and February 27, 1991, Esteem and Durable requested that the POI in the oscillating fans proceeding be extended beyond the "normal" six-month period because most of their sales of oscillating fans occur during months other than the six-month POI. Petitioner and the China Chamber argued against expanding the POI. On March 19, 1991, the Department expanded the POI for Esteem and Durable, determining that the sales during the POI for those respondents covered a very small percentage of their annual volume and value of sales. Accordingly, the POI for Esteem and Durable was expanded to cover the period from November 1, 1989 through October 31, 1990. The POI for all other respondents in the oscillating fans investigation is May 1, 1990 through October 31, 1990.

Fair Value Comparisons

To determine whether sales of fans from the PRC to the United States were made at less than fair value, we compared the United States price to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

I. Oscillating Fans

For Esteem, Durable, Polaray, and Wuxi, we based United States price on purchase price where sales were made directly to unrelated parties prior to

importation into the United States, in accordance with section 772(b) of the Act. We used purchase price as defined in section 772 of the Act, both because the fans were sold to unrelated purchasers in the United States prior to importation into the United States, and because ESP methodology was not indicated by other circumstances.

For Esteem and Durable, where sales to the first unrelated purchaser took place after importation into the United States, we based United States price on exporter's sales price (ESP), in accordance with section 772(c) of the Act.

Given that we had no data on general expenses and that we used the ten percent statutory minimum for general expenses as best information available on the foreign market value side, we made no adjustments to ESP, other than for movement charges. To do so would have required an arbitrary division of general expenses into amounts for direct and indirect selling, and other general and administrative expense. Furthermore, to reduce ESP selling expenses without making corresponding adjustments to FMV would have resulted in an unfair and unreasonable inflation of any difference between ESP and FMV.

A. Esteem

For Esteem, we calculated both purchase price and ESP based on packed, FOB Hong Kong or delivered prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, customs declaration fees, marine insurance, ocean freight, U.S. duties, U.S. brokerage and handling, U.S. inland insurance, and U.S. inland freight.

B. Durable

For Durable, we calculated both purchase price and ESP based on packed, CIF duty paid or delivered prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign brokerage and handling, marine insurance, ocean freight, U.S. duties, U.S. brokerage and handling, U.S. inland insurance, U.S. inland freight, and other movement expenses, including customs declaration fees. We excluded from our analysis certain reported purchase price sales of oscillating fans not manufactured by Durable. These sales also appear to have been reported by the respondent related to the products' manufacturer. We will seek further information about these circumstances at verification.

We calculated ESP based on packed, FOB Hong Kong or delivered prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, customs declaration fees, ocean freight, marine insurance, U.S. duties, U.S. brokerage and handling, and U.S. inland freight.

C. Polaray

For Polaray, we calculated purchase price based on packed FOB Hong Kong prices to unrelated customers in the United States. We made deductions for foreign inland freight and foreign brokerage.

In its response, Polaray stated that it granted two types of discounts: (1) A "defective allowance discount"; and (2) a discount for free parts. We have disallowed these price adjustments because there is conflicting evidence as to whether they were actually discounts (which we would allow) or selling expenses (which we would not allow in this case).

D. Wuxi

For Wuxi, we calculated purchase price based on packed, FOB Shanghai prices to unrelated customers in the United States. We made deductions for foreign inland freight. We based the deduction for foreign inland freight on freight rates in Pakistan, as Wuxi reported the use of PRC transportation services in incurring this charge.

II. Ceiling Fans

For CEC, Wing Tat, Shell, and Xinhui, we based United States price on purchase price where sales were made directly to unrelated parties prior to importation into the United States, in accordance with section 772(b) of the Act. We used purchase price as defined in section 772 of the Act, both because the fans were sold to unrelated purchasers in the United States prior to importation into the United States, and because ESP methodology was not indicated by other circumstances.

For CEC and Shell, where sales to the first unrelated purchaser took place after importation into the United States, we based United States price on ESP, in accordance with section 772(c) of the Act.

For the reason described above under oscillating fans, we made no adjustments to ESP, other than movement charges.

A. CEC

For CEC, we calculated purchase price based on packed, FOB Hong Kong prices to unrelated customers in the

United States. We made deductions, where appropriate, for foreign inland freight and customs declaration fees.

We calculated ESP based on packed, CIF duty paid, U.S. port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, customs declaration fees, ocean freight, marine insurance, U.S. brokerage, and U.S. duties.

B. Wing Tat

For Wing Tat, we calculated purchase price based on packed, FOB Hong Kong prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, and customs declaration fees.

C. Shell

For Shell, we calculated purchase price based on packed, FOB Hong Kong or C&F U.S. Port prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, customs declaration fees, ocean freight, and discounts.

We calculated ESP based on packed, FOB warehouse or C&F U.S. customer prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, customs declaration fees, ocean freight, marine insurance, U.S. duties, U.S. inland freight, and U.S. brokerage.

The foreign inland insurance and customs declaration fees reported in Shell's sales listing were not consistent with the methodology explained in the questionnaire response. We have recalculated these expenses based on information in the narrative portion of the questionnaire response.

On May 17, 1991, Shell, reporting that it inadvertently omitted a number of ESP sales made during the POI from its sales listings, provided a new sales listing on computer tape. We receive this information too late for consideration in the preliminary determination. In addition, we were unable to compare certain ESP sales with the appropriate FMV due to missing or inconsistent FMV data in Shell's computer tape. For these two sets of sales, we have estimated a margin based on the highest single margin calculated for any of Shell's ESP sales, excluding those sales with extraordinarily high dumping margins, as best information available.

D. Xinhui

For Xinhui, we calculated purchase price based on packed, CIF U.S. port prices to unrelated customers in the

United States. We made deductions, where appropriate, for foreign inland freight, ocean freight, and marine insurance. We based the deduction for foreign inland freight on freight rates in Pakistan, as Xinhui reported the use of PRC transportation services in incurring this charge.

Foreign Market Value

Section 773(c)(1) of the Act provides that the Department shall determine FMV using a factors of production methodology if (1) the merchandise is exported from an NME country, and (2) the information does not permit the calculation of FMV using home market prices, third country prices, or constructed value under section 773(a).

Pursuant to section 771(18) of the Act and based on determinations in prior proceedings, the PRC is an NME. (See e.g., Final Determination of Sales at Less than Fair Value: Natural Menthol From the People's Republic of China (46 FR 24614, May 1, 1981); Initiation of Antidumping Duty Investigation: Refined Antimony Trioxide From the People's Republic of China (56 FR 23549, May 22, 1991). Respondents have not refuted this determination. However, several of the respondents claim that available information permits the use of section 773(a) of the Act to calculate FMV.

Respondents Esteem and Durable have claimed that the oscillating fans sector (or an individual firm) is not sufficiently state controlled to allow the use of factors of production for FMV. Citing the criteria of section 771(18) of the Act, these respondents contend that the Department should find that the industrial sector (or an individual firm) producing oscillating fans is sufficiently free of state control to allow calculation of FMV based on market economy methodologies, i.e., home market sales, third country sales, or constructed value, as appropriate. These respondents argue that their location in an NME does not distort their costs of production in such a manner that FMV cannot accurately be determined based on their own prices or cost structures. Respondents cite the following as evidence of a lack of distortion of costs and, therefore, the reasonableness of using their third country prices for FMV:

- The companies are privately owned and operate on market principles without interference from the state;
- The overwhelming majority of material inputs are sourced from abroad or from other foreign investment projects in southern China;
- All output is sold outside the PRC; and

- The labor market in southern China is competitive.

Further, based on the above facts and the alleged lack of cost and price distortion, these respondents argue that the Act permits the Department to make its determination under section 773(c)(1)(B) on a factory-by-factory basis. Alternatively, these respondents argue that if the Department confines its analysis to an industrial sector, the sector should be defined as foreign investment factories producing oscillating fans.

Respondents CEC and Wing Tat cite the criteria set forth in Certain Headwear from the PRC ("Headwear") (54 FR 11983, March 23, 1989) and argue that the industrial sector producing ceiling fans is not state controlled. They contend that in at least one investigation (Certain Steel Wire Nails from Yugoslavia (50 FR 47788, February 3, 1986)), the Department concluded that, while the economy of the country under investigation exhibited elements of state control, the economy was not state controlled for purposes of the industry in question. Accordingly, these respondents contend that FMV may be calculated based on their third country prices or constructed value.

Citing Headwear, CEC and Wing Tat contend that, in assessing whether a particular industrial sector is not state controlled, the Department examines criteria including: (1) The degree of government ownership of the means of production; (2) the degree of centralized government control over inputs or the allocation of resources; (3) the degree of centralized government control over output; (4) the relative convertibility of the country's currency; and (5) the degree of government control over foreign trade. These respondents argue that:

- They are foreign-owned;
- The PRC government has no control over type or volume of production, prices charged, or distribution of profits;
- The vast majority of inputs are sourced in market economies;
- PRC-sourced inputs are purchased at market prices negotiated at arm's length;
- The government exercises no control over input prices;
- Labor is essentially free of government involvement;
- The companies are free to hire, fire, and contract freely with employees;
- The government does not restrict the companies' rights to obtain, use, or dispose of capital;
- The companies purchase electricity at a rate which is higher than the rate in Hong Kong; and

• There are no foreign exchange controls imposed on the companies.

The China Chamber argues that the oscillating fans and ceiling fans sectors are not state controlled within the meaning of the Act. The China Chamber contends that oscillating fans and ceiling fans are "category three" products which "are not regulated at varying degrees, and sometimes not at all" and are to some extent not subject to state or foreign trade planning. (Letter from Skadden, Arps, Slate, Meagher & Flom dated December 21, 1990, at page 6.) The China Chamber further asserts that manufacturers of these products do not receive assistance or allocations from any level of government in the PRC, their operations are not subject to interference or supervision by the government, and that prices, production quantities, style, marketing, profit allocation, capital expenditures, and labor policy are independently determined by the manufacturers and exporters.

These assertions, and our understanding of the circumstances under which these respondents produce and sell the subject merchandise, require us to consider how any industrial sector or any commercial entity in an NME can be said to be operating on market principles such that costs and prices are acceptable, reliable measures of FMV. The legislative history of section 773(c)(1)(B) of the Act simply paraphrases the statutory language and provides no additional guidance in its interpretation or application. Our preliminary conclusion is that absent a showing that all costs and prices are market-oriented, FMV in an NME cannot be based on home market prices, third country prices, or constructed value, but must be based on a factors of production methodology.

In these investigations, while some respondents report that they source substantially all of their material inputs from market economies, significant inputs such as labor and the subcomponents of overhead are obtained from sources in the PRC. The available information does not permit us to determine that these domestic inputs are market-based. Regarding labor for example, while some respondents have alleged that they are free to hire, fire, and set wages, government controls on labor mobility and other restrictions in the PRC indicate that labor rates are substantially less free than in market economies. There is also evidence on the record in these investigations that some of the foreign-owned respondents are prohibited from selling their products, parts, or raw materials in the

local PRC markets. In addition, a State Department cable indicates that at least Guangdong Province, the location of most of the respondents' factories, has imposed minimum export prices for a variety of products including "electric fans."

Accordingly, we conclude for purposes of these preliminary determinations that because all inputs are not market based, respondents' costs and prices are not accurate, reliable measures of FMV. Therefore, we preliminarily determine in accordance with section 773(c)(1) of the Act that the use of factors of production is required to determine FMV.

Section 773(c) further requires the Department to value the factors of production, to the extent possible, in one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country under investigation, and that are significant producers of comparable merchandise. Once we find that a country is an NME, it is our presumption that no domestic production factor is valued on market principles, and that all factors must be valued in an appropriate surrogate market. However, this presumption can be overcome for individual factors by individual respondents with a showing that the NME value is market driven.

It is the Department's practice to value factor of production inputs at actual acquisition prices if it can be established that those inputs are purchased from a market economy country. (See, e.g., *Sparklers*, supra.) If a party is able to establish that inputs purchased in an NME are purchased at market-oriented prices, we may likewise be able to accept them for purposes of a factors of production analysis.

If at the time of these final determinations we are satisfied that the cost of inputs sourced in the PRC, including materials, labor, water, electricity, and rent, are valued on the basis of market principles, we may substitute those market values for surrogate country values in individual firm calculations. The Department has not accepted the assertions of respondents that these factors are market based for these preliminary determinations because of the nature of a command economy. We must find that the claimed market bases of the PRC-sourced inputs are sufficient to overcome the controls inherent to an NME prior to any use of those factor values in the final determinations.

For these preliminary determinations, we calculated FMV based on the factors

of production reported by each respondent.

For PRC-sourced parts (except as noted below), we valued the reported factor of production using the surrogate values. We used data for the values of the factors of production provided by the U.S. posts in Pakistan. This information was obtained from local Pakistani producers of oscillating fans and ceiling fans, and was the most complete information received from the countries that are known producers of oscillating fans and ceiling fans, and that are comparable to the PRC in terms of per capita GNP, the national distribution of labor, and growth rate in per capita GNP. For these factors for which we did not obtain values from Pakistan, we have relied on alternative published sources of Pakistani data and data from India.

Shortly before these preliminary determinations, we received information from the U.S. Embassy in India which included costs for many factors of production used in our calculations. This information was received too late for consideration in our preliminary determinations. However, we may be able to use this information in our final determinations. This information is part of the public file in these investigations; we invite comment on the appropriateness of changing the surrogate values for the final determinations.

For certain material inputs, we were unable to obtain appropriate surrogate values from any of our surrogate country sources. While some of these parts might be included in the surrogate information categories of "other hardware parts" or "plastic parts", for example, we could not reasonably assign surrogate values to some of the other components for certain respondents. In addition, some foreign-owned respondents have reported U.S. or Hong Kong dollar prices or values for PRC-origin parts because the items were purchased in Hong Kong from sources unknown to us, or their PRC prices were converted into U.S. dollars. We cannot normally accept such prices because they are based on NME costs and inputs, for which a true market value has yet to be established. There is no other information on the record at this time for us to use to value these material inputs. As best information available for purposes of these preliminary determinations, we have assigned the values reported by the respective respondent for these material inputs. For the final determinations, we will attempt to obtain more appropriate surrogate values for these items.

Materials sourced from market-economy countries and paid for in convertible currencies were valued using the actual market prices reported by the respondents.

To the factors for materials and labor, we added an amount for factory overhead based on Pakistani experience.

For selling, general, and administrative expenses (SG&A), we used the statutory minimum of ten percent, as we did not receive timely information on the actual SG&A expenses incurred by surrogate oscillating fans and ceiling fans producers. Finally, we added an amount for profit based on the experience of Pakistani oscillating fans and ceiling fans producers because these profit percentages were higher than the statutory eight percent minimum.

To this constructed FMV, we added an amount for packing, where appropriate.

We made currency conversions in accordance with 19 CFR 353.60(a).

Critical Circumstances

On March 4, 1991, petitioner alleged that "critical circumstances" exist with respect to imports of oscillating fans from the PRC. Section 733(e)(1) of the Act provides that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

We asked the oscillating fans respondents, Esteem, Durable, Polaray, and Wuxi, to supply monthly shipment volume data from January 1989 through March 1991. We received the information from Esteem, Durable, and Polaray, on April 16, and from Wuxi on April 22, 1991.

We examined recent antidumping cases and found that there are currently no findings of dumping in the United States or elsewhere of oscillating fans by PRC manufacturers. However, it is our standard practice to impute knowledge of dumping under section 735(a)(3)(A) of the Act when the estimated margins in our determinations are of such a magnitude that the importer should realize that dumping

exists with regard to the subject merchandise. Normally, we consider estimated margins of 25% or greater to be sufficient. However, in cases where the foreign manufacturer sells through a related company (*i.e.*, on an ESP basis), we consider that lower margins may be sufficient. All of the preliminary margins for the respondents are below 25 percent, and for those respondents who also sell on an ESP basis, the margins are below 15 percent. Therefore, we find that the requirements of section 735(a)(3)(A) are not met.

Accordingly, we do not need to consider whether there have been massive imports, and we preliminarily determine that critical circumstances do not exist with respect to imports of oscillating fans from the PRC.

Verification

As provided in section 776(b) of the Act, we will verify all information used in making our final determinations.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of oscillating fans from the PRC, (except for those of Esteem and Polaray), and all entries of ceiling fans from the PRC, (except for those of CEC and Xinhui), as defined in the "Scope of Investigations" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margins, as shown below. The suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

I. Oscillating Fans

Manufacturer/producer/exporter	Margin percentage
Esteem Industries Ltd./HASM Manufacturing Co., Ltd./Holmes Products Corp.	0.00
Durable Electrical Metal Factory Ltd./Parawind Ltd./Paragon Industries	1.00
Polaray Industrial Corporation/Paragon Industries (China) Inc./Polaray Industrial (Hong Kong) Corporation, Ltd.	0.00
Wuxi Electric Fan Factory	19.12
All others	4.91

II. Ceiling Fans

Manufacturer/producer/exporter	Margin percentage
CEC Electrical Manufacturing (International) Company, Ltd./CEC Industries (Shenzhen) Ltd./CEC (USA) Texas Group, Inc.	0.37. (<i>de minimis</i>).
Wing Tat Electric Manufacturing Co., Ltd./China Miles Co., Ltd.	4.24.
Shell Electric Mfg. (China) Co./SMC Electric Mfg. (Sian Hua) Co./SMC Marketing Corporation.	4.87.
Xinhui Electric Motor Factory.	0.00.
All others	4.64.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to these investigations. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If our final determinations are affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industries before the later of 120 days after the date of these preliminary determinations or 45 days after our final determinations.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary no later than July 2, 1991, and rebuttal briefs no later than July 9, 1991. In accordance with 19 CFR 353.38(b), we will hold public hearings, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the oscillating fan and ceiling fan hearings will be held on July 12, 1991, at 9 a.m. and 1:30 p.m., respectively, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Parties should confirm by telephone the time,

date, and place of the hearings 48 hours before the scheduled time.

Interested parties who wish to participate in the hearings must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099, within ten days of the publication of this notice in the *Federal Register*.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

These determinations are published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)) and 19 CFR 353.15.

Dated: May 29, 1991

Eric I. Garfinkel,
Assistant Secretary for Import
Administration.

[FR Doc. 91-13244 Filed 6-4-91; 8:45 am]
BILLING CODE 3510-DS-M

[A-588-814]

Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip From Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce determined that polyethylene terephthalate film, sheet, and strip, (PET film) from Japan was being sold in the United States at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that a U.S. industry is being materially injured by reason of these imports.

Therefore, based on these findings, all unliquidated entries or warehouse withdrawals of PET film from Japan, made on or after November 30, 1990, the date of publication in the *Federal Register* of the Department's affirmative preliminary determination (55 FR 49666), will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries or warehouse withdrawals made on or after the date of publication of this antidumping duty order in the *Federal Register*.

EFFECTIVE DATE: June 5, 1991.

FOR FURTHER INFORMATION CONTACT:
David J. Goldberger, Office of
Antidumping Investigations, Import

Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; (202) 377-4136.

Scope of Order

The product covered by this order is all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. The firms excluded from the scope of this order are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches (0.254 micrometers) thick.

PET film is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 3920.62.00.00. The HTS subheading is provided for convenience and customs purposes. The written description remains dispositive as to the scope.

SUPPLEMENTARY INFORMATION: In accordance with section 735(a) of the Tariff Act of 1930, as amended (19 USC 1673d(a)) (the Act), on April 22, 1991, the Department of Commerce (Department) made its final determination that PET film from Japan is being sold at less than fair value (56 FR 16300). On May 29, 1991, in accordance with section 735(d) of the Act, the ITC notified the Department that such imports materially injure a U.S. industry.

Therefore, in accordance with section 736 of the Act, the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act, antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of PET film from Japan. These antidumping duties will be assessed on all unliquidated entries of PET film from Japan entered, or withdrawn from warehouse, for consumption on or after November 30, 1990, the date on which the Department published its preliminary determination notice in the *Federal Register*.

On or after the date of publication of this notice in the *Federal Register*, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average dumping margin, as shown below.

Manufacturer/producer/exporter	Margin percentage
Teijin Limited.....	3.03
Toray Industries, Inc.....	14.00
All Others.....	6.32

This constitutes the antidumping duty order with respect to PET film from Japan, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, Room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published pursuant to section 736(a) of the Act (19 U.S.C. 1673e(a)) and 19 CFR 353.21

Dated: May 31, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import
Administration.

[FR Doc. 91-13245 Filed 6-4-91; 8:45 am]
BILLING CODE 3510-DS-M

[A-580-807]

Antidumping Duty Order and Amendment to Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the U.S. Department of Commerce (the Department) determined that polyethylene terephthalate film, sheet, and strip (PET film) from the Republic of Korea was being sold in the United States at less than fair value. In a separate investigation, the U.S. International Trade Commission (ITC) determined that a U.S. industry is being materially injured by reason of these imports.

Therefore, based on these findings, all unliquidated entries or warehouse withdrawals of PET film from the Republic of Korea, made on or after November 30, 1990, the date of publication in the *Federal Register* of the department's affirmative preliminary determination (55 FR 49668), will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries or warehouse withdrawals made on or after the date of publication of this antidumping duty order in the *Federal Register*.

We are amending the final results of the antidumping duty investigation of PET film from the Republic of Korea (56 FR 16305, April 22, 1991) to correct a clerical error in the calculations. The correct cash deposit rate for Cheil Synthetics, Ltd. (Cheil) is 3.71 percent. The correct cash deposit rate for the "All Others" category of producer/exporters is 4.82 percent.

EFFECTIVE DATE: June 5, 1991.

FOR FURTHER INFORMATION CONTACT: Steven Lim, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-4087.

SCOPE OF ORDER: The product covered by this order is all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. The films excluded from the scope of this order are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches (0.254 micrometers) thick.

PET film is currently classifiable under the Harmonized Tariff Schedule (HTS) subheading 3920.62.00.00. The HTS subheading is provided for convenience customs purposes. The written description remains dispositive as to the scope of the product coverage.

SUPPLEMENTARY INFORMATION:

In accordance with section 735(a) of the Tariff Act of 1930, as amended (19 USC 1673(d)(a)) (the Act), on April 22, 1991, the Department of Commerce published its final determination that PET film from the Republic of Korea is being sold at less than fair value (56 FR 16305). On May 29, 1991, in accordance with section 735(d) of the Act, the ITC notified the Department that such imports materially injure a U.S. industry. After publication of our final results, Cheil alleged that the Department committed a ministerial error in its calculation of constructed value (CV). Specifically, Cheil alleged that the Department overstated CV by double counting a portion of severance pay expense already included in the company's reported PET film manufacturing costs. We agree with Cheil. After correcting the calculations, the final estimated margin percentage for Cheil changes from the 3.88 percent published in the final determination to 3.71 percent. The "All Others" rate changes from the 4.88 percent published in the final determination to 4.82 percent.

Accordingly, pursuant to section 735(e) of the Act, we are correcting the ministerial error in the final determination of sales at less than fair value. The cash deposit rate for Cheil is now 3.71 percent. The cash deposit rate for the "All Others" category is now 4.82 percent. The cash deposit rate for SKC Limited remains unaffected by this amendment to the final determination.

Therefore, in accordance with section 736 of the Act, the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act, antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of PET film from the Republic of Korea. These antidumping duties will be assessed on all unliquidated entries of PET film from the Republic of Korea entered, or withdrawn from warehouse, for consumption on or after November 30, 1990, the date on which the Department published its preliminary determination notice in the *Federal Register*.

On or after the date of publication of this notice in the *Federal Register*, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties of this merchandise, a cash deposit equal to the estimated weighted-average dumping margin, as shown below.

Manufacturer/producer/exporter	Margin percentage
SKC Limited and SKC America, Inc.	5.38
Cheil Synthetics, Inc.	3.71
All Others	4.82

This constitutes the antidumping duty order with respect to PET film from the Republic of Korea, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, Room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published pursuant to sections 735(d) and 736(a) of the Act (19 USC 1673(d), 1673e(a)) and 19 CFR 353.21 and 353.28(c).

Dated: May 31, 1991.

Eric I. Garfinkel,
Assistant Secretary for Import
Administration.

[FR Doc. 91-13246 Filed 6-4-91; 6:45 am]

BILLING CODE 3510-DS-M

[C-351-005]

Frozen Concentrated Orange Juice from Brazil; Determination Not To Terminate Suspended Investigation and Notification of Withdrawal of Review Request

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of determination not to terminate suspended investigation and notice of withdrawal of review request.

SUMMARY: The Department of Commerce is notifying the public of its determination not to terminate the suspended countervailing duty investigation on frozen concentrated orange juice from Brazil and the withdrawal of the request to conduct an administrative review covering the period January 1, 1990 through December 31, 1990.

EFFECTIVE DATE: June 5, 1991.

FOR FURTHER INFORMATION CONTACT: Millie Mack or Barbara Williams, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3793.

SUPPLEMENTARY INFORMATION:

Background

The Secretary may conclude that a suspension agreement is no longer of interest to interested parties, and may terminate the suspended investigation, if for four consecutive annual anniversary months, no interested party requests an administrative review.

This suspension agreement became effective March 2, 1983 (48 FR 8839). As there have been no requests for review for more than four consecutive anniversary months, on March 6, 1991, the Department of Commerce ("the Department") published in the *Federal Register* (56 FR 9345) notice of its intent to terminate the suspended countervailing duty investigation on frozen concentrated orange juice from Brazil (March 2, 1983, 48 FR 8839).

However, on March 28, 1990, the petitioner, Florida Citrus Mutual, and certain producers of frozen concentrated orange juice objected to the Department's intent to terminate this suspended investigation. Therefore, we no longer intend to terminate the suspended investigation.

In addition, on April 1, 1991, the respondent filed a request for review covering the period January 1, 1990 through December 31, 1990. We published an initiation notice on April 19, 1991 (56 FR 15956). However, this

request was withdrawn on April 30, 1991, in accordance with section 355.25(a)(3) of the Commerce Department's regulations.

This notice is in accordance with section 355.25(d)(4) of the Commerce Department's regulations.

Dated: May 29, 1991.

Joseph A. Spetrini,
Deputy Assistant Secretary for Compliance.
[FR Doc. 91-13248 Filed 6-4-91; 8:45 am]
BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application for an amendment to an Export Trade Certificate of Review.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be amended.

FOR FURTHER INFORMATION CONTACT: George Muller, Acting Director, Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the Federal Register identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be amended. An original and five (5) copies should be submitted not later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of

Commerce, Room 1800, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 88-3A016."

OETCA has received the following application for an amendment to Export Trade Certificate of Review No. 88-00016, issued on February 3, 1989 (54 FR 6312, February 9, 1989).

Summary of the Application

Applicant: Wood Machinery Manufacturers of America (WMMA), 1900 Arch Street, Philadelphia, Pennsylvania 19103.

Contact: John S. Satagaj, WMMA Counsel, 1156 15th Street NW., Suite 510, Washington, DC 20005. Telephone: (202) 639-8888.

Application No.: 88-3A016.

Date Deemed Submitted: May 22, 1991.

WMMA seeks to amend its Certificate to add the following companies as "Members" of the Certificate: Carter Products Co., Inc., Grand Rapids, MI; Fletcher Machine Co., Lexington, NC; Unique Machine & Tool Co., Tempe, AZ; and VETS, Inc., Fridley, MN.

Dated: May 30, 1991.

George Muller,
Director, Office of Export Trading Company Affairs.

[FR Doc. 91-13195 Filed 6-4-91; 8:45 am]

BILLING CODE 3510-DR-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application No. 91-00003.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to Fabiano & Associates, Inc. ("FAI"). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are

found at 15 CFR part 325 (1990) (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the Federal Register. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. *Products*—All Products.
2. *Services*—All Services.
3. *Export Trade Facilitation Services* (as they relate to the Export of Products and Services).

Export Trade Facilitation Services including professional services in the areas of government relations, foreign trade and business protocol, marketing, marketing research, negotiations, joint ventures, shipping, export management, advertising, documentation, insurance and financing, trade show exhibitions, organizational development, management strategies and transfer of technology.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

1. To engage in Export Trade in the Export Markets, FAI as an Export Intermediary, may:
 - a. Provide and/or arrange for the provisions of Export Trade Facilitation Services;
 - b. Engage in promotional and marketing activities;
 - c. Enter into exclusive export sales agreements with Suppliers for the export of Products and/or Services for sale in the Export Markets; such agreements may prohibit Suppliers from exporting independently of FAI;
 - d. Enter into exclusive agreements with distributors in the Export Markets;

e. Establish the price of products and/or Services for sale in the Export Markets;

f. Allocate export orders among its Suppliers; and

g. Enter into contracts for shipping.

2. FAI and individual Suppliers may regularly exchange information on a one-on-one basis regarding inventories and near-term production schedules in order that the availability of supplies for export can be determined and effectively coordinated by FAI with its distributors in the Export Markets.

3. FAI may require and Supplier wishing to terminate its export sales agreement to give FAI six months written notice. FAI may require a former Supplier not to sell through foreign distributors with whom FAI deals for a period of two years following termination.

Definitions

1. *Export Intermediary* means a person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.

2. *Supplier* means a person who produces, provides, or sells a Product and/or Service.

A copy of the Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: May 30, 1991.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 91-13190 Filed 6-4-91; 8:45 am]

BILLING CODE 3510-DR-M

National Institute of Standards and Technology

[Docket No. 910519-1119]

Notice of Approval of Amendments to Voluntary Product Standard PS20-70 (86), "American Softwood Lumber Standard"

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: Several amendments to Voluntary Product Standard PS20-70 "American Softwood Lumber Standard" became effective on May 7, 1991. Copies

of these amendments are available from the Office of Standards Services, A625—Administration Building, National Institute of Standards and Technology, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT:

Barbara M. Meigs, Office of Standards Services, National Institute of Standards and Technology, Gaithersburg, MD 20899, (301) 975-4025.

Authority: 15 U.S.C. 272 and 15 CFR part 10.

Dated: May 31, 1991.

John W. Lyons,

Director.

[FR Doc. 91-13254 Filed 6-4-91; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Western Pacific Fishery Management Council; Teleconference

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council will hold a teleconference on May 30, 1991, at 1 p.m. (Hawaiian Standard Time). The Council will discuss and take action on a housekeeping item regarding the Pelagics Fishery Management Plan (FMP).

The Council will discuss action on a change to the Pelagics FMP. At its February 28-March 1, 1991, meeting, the Council voted to allow Northwestern Hawaiian Islands lobster vessels that do not: (1) Qualify to fish under the NWHI limited entry plan for bottomfish, or (2) qualify to use pelagic longline gear under the terms of the current longline moratorium, to obtain a limited entry longline permit issued under the terms of the longline moratorium.

This action was approved for the proposed amendment to the FMP, but was overlooked at the Council's May 15-16, 1991, meeting when technical changes were made to the emergency rule that implemented the longline moratorium. The Council had intended to make this allowance for lobster boats effective during the emergency action that established the longline moratorium, but did not as an oversight.

This special telephone conference will be held for housekeeping purposes so that the Council can allow these lobster boats to obtain limited entry permits during the emergency action.

For more information contact Kitty M. Simonds, Executive Director, Western

Pacific Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813; telephone: (808) 523-1368.

Dated: May 30, 1991.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91-13175 Filed 6-4-91; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Proposed Automobile Insurance Futures and Futures Option Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and futures option contracts.

SUMMARY: The Chicago Board of Trade (CBT or Exchange) has applied for designation as a contract market in automobile insurance futures and as a contract market in automobile insurance futures options. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation § 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before July 5, 1991.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the CBT automobile insurance futures contract or automobile insurance option contract.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, at (202) 254-7303.

SUPPLEMENTARY INFORMATION: In addition to requesting comment on the terms and conditions of the proposed futures and futures option contracts, the Division also is requesting comment on the merits of a petition filed by the CBT pursuant to § 33.11 of the Commission's

option rules. The petition requests exemptive relief from the trading volume tests for options on futures as set forth in Commission rule 33.4(a)(5)(iii).

Copies of the terms and conditions of the proposed contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the CBT in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or argument on the terms and conditions of the proposed contracts, or with respect to other materials submitted by the CBT in support of the applications, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC, 20581, by the specified date.

Issued in Washington, DC on May 30, 1991.

Gerald Gay,
Director.

[FR Doc. 91-13154 Filed 6-4-91; 8:45 am]
BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Base Closure and Realignment Commission; Meeting

ACTION: Public Hearing of the Defense Base Closure and Realignment Commission.

SUMMARY: An open public hearing of the Defense Base Closure and Realignment Commission will be held in room 2187, Rayburn House Office Building, Washington, DC, beginning at 10 a.m. The hearing will be concerned primarily with the realignment of Army Corps of Engineers activities.

Less than 15 days notice is being

given due to the recent receipt of the Corps of Engineers realignment plan by the Commission.

FOR FURTHER INFORMATION CONTACT: Defense Base Closure and Realignment Commission, Mr. Cary Walker, Director of Communications and Public Affairs, 202-653-0823.

Dated: May 31, 1991.

L.M. Bynum,
Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 91-13274 Filed 6-4-91; 8:45 am]
BILLING CODE 3810-01-M

Defense Base Closure and Realignment Commission; Meetings

ACTION: Announcement of public deliberation meetings of the Defense Base Closure and Realignment Commission.

SUMMARY: Open public meetings of the Defense Base Closure and Realignment Commission will be held in Washington, DC in accordance with the following dates and times, with specific meeting locations as shown below, or to be determined and published in the Federal Register: Thursday/Friday, June 6-7, 9:30 AM, Office of Thrift Supervision Amphitheater, 17th & F Streets N.W., "Commission deliberation hearings on closure/realignment candidates;" Thursday/Friday, June 13-14, 9:30 AM, General Services Administration Auditorium, 18th & L Streets NW., "Commission deliberation hearings on closure/realignment candidates;" Monday/Tuesday, June 17-18, 9:30 a.m. location to be determined, "Commission deliberation hearings on closure/realignment candidates."

In some instance, less than 15 days notice is being given due to difficulties in confirming appropriate locations in the Washington, DC area to accommodate large public hearings.

FOR FURTHER INFORMATION CONTACT: Defense Base Closure and Realignment Commission, Mr. Cary Walker, Director of Communications and Public Affairs, 202-653-0823.

Dated: May 30, 1991.

L.M. Bynum,
Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 91-13156 Filed 6-4-91; 8:45 am]
BILLING CODE 3810-01-M

Department of the Air Force

Intent To Prepare Environmental Impact Statement on United States Air Force, National Guard Bureau Aircraft Conversions at Barnes Municipal Airport, Westfield, Massachusetts and Bradley ANG Base, East Granby, Connecticut

The United States Air Force (USAF), National Guard Bureau (NGB) intends to begin preparing an Environmental Impact Statement (EIS) on proposed aircraft conversions at Barnes Municipal Airport, Westfield MA and Bradley ANG Base, East Granby, CT. The EIS will assess all impacts as they relate to this conversion including construction of facilities to support the action, aircraft air to ground bombing range use at Fort Drum, NY, Warren Grove NJ and Fort Indiantown Gap PA, and special use airspace in the states of NY, NJ, PA, ME, VT and over the Atlantic Ocean.

The USAF, NGB will be the lead agency for the EIS. The Federal Aviation Administration (FAA) is being invited to be a cooperating agency.

The USAF, NGB is planning to conduct scoping meeting to determine the issues and concerns that should be addressed in the EIS. Notice of time and place of the planned scoping meetings will be made to public officials and agencies and announced in the news media in areas where the scoping meetings will be held.

To assure the USAF, NGB will have sufficient time to consider public inputs on issues to be included in developing the EIS, comments should be forwarded to the address below by July 31, 1991. The USAF NGB will accept comments any time during the environmental impact analysis process.

For further information concerning the proposed conversions at Barnes Municipal Airport and Bradley ANG Base contact: Mr. Ronald M. Watson, Environmental Division, National Guard Bureau, Stop 18, Building 3500, Andrews AFB, MD 20331-6008.

Patsy J. Conner,
Air Force Federal Register Liaison Officer.
[FR Doc. 91-13191 Filed 6-4-91; 8:45 am]
BILLING CODE 3910-01-M

Department of the Navy

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Defense Subpanel Task Force will meet June 6, 1991 from 9 a.m. to 5 p.m., in the CNO's

Conference Room, Pentagon 4E630, Washington, DC. This session will be closed to the public.

The purpose of this meeting is to discuss policy and budgetary matters of immediate Navy interest. The entire agenda for the meeting will consist of discussions of key issues regarding national security, maritime defense needs, defense policy, planning, and budgetary matters of immediate Navy interest in the aftermath of Desert Shield/Storm and its impact on Congressional actions. These matters constitute classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

This notice is being published late because of administrative delays which constitute an exceptional circumstance, not allowing Notice to be published in the *Federal Register* at least 15 days before the date of this meeting. For more information concerning this meeting, contact: Judith A. Holden, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: May 29, 1991.

G.B. Roberts,

Federal Register Liaison Officer.

[FR Doc. 91-13284 Filed 6-4-91; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Availability of Restricted Eligibility Solicitation, DE-PS01-91RW00231, for the Conduct of Feasibility Studies for the Siting of a Monitored Retrievable Storage Facility

AGENCY: U.S. Department of Energy.

ACTION: Notice of Availability to make grants of financial assistance on a restricted eligibility basis pursuant to 10 CFR 600.7(b)(1) in response to applications received from eligible States, Indian tribes and affected units of local government pursuant to section 406 (b) of the Nuclear Waste Policy Act of 1982, as amended.

SUMMARY: On May 8, 1991, the Department of Energy published a Notice of Intent to Issue a Restricted Eligibility Solicitation for the Conduct of Feasibility Studies for the siting of a

Monitored Retrievable Storage (MRS) Facility. (Vol. 56, No. 89, Page 21,360)

By means of this Notice, a restricted eligibility solicitation is now available inviting the submission by eligible States, Indian tribes and affected units of local government of applications for grants of financial assistance. Executive Order 12372, Intergovernmental Review of Federal Programs, as implemented by 10 CFR part 1005, applies to this program.

ADDRESSES: Requests for copies of the solicitation must be in writing to: U.S. Department of Energy, Office of Placement and Administration, Attn: Ms. Kristin Wright/PR-322.2, 1000 Independence Ave. SW., Washington, DC 20585.

For further information contact Ms. Wright on (202) 586-4285.

Issued in Washington, DC on May 28, 1991.

Thomas S. Keefe,

Director, Operations Division "B", Office of Placement and Administration.

[FR Doc. 91-13143 Filed 6-4-91; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 2711-001, Wisconsin]

Northern States Power Co.; Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

May 29, 1991.

The license for the Trego Hydro Project No. 2711-001, located on the Namekagan River in Washington County, Wisconsin, expires on March 31, 1993. The statutory deadline for filing an application for new license was March 31, 1991. An application for new license has been filed as follows:

Project No.	Applicant	Contact
P-2711-001.....	Northern States Power Company, 100 N. Barstow Street, P.O. Box 8, Eau Claire, WI 54702.	Mr. Anthony G. Schuster, Vice President, Power Supply, Northern States Power Co., Eau Claire, WI 54702.

The following is an approximate schedule and procedures that will be followed in processing the application(s).

Date	Action
May 15, 1991.....	Commission issued public notice of the accepted application establishing dates for filing motions to intervene, comments, protests, and agency recommendations.
May 10, 1991.....	Commission notifies applicant of the need for additional information which is due June 24, 1991.
July 24, 1991.....	Commission's deadline for applicant to file a final amendment, if any, to its application.

Upon receipt of all additional information and the information filed in response to the public notice of the acceptance of the application, the Commission will evaluate the application in accordance with applicable statutory requirements and take appropriate action on the application.

Any questions concerning this notice should be directed to Mary Golato at 8-299-2804 or (202) 219-2804.

Lois D. Cashell,

Secretary.

[FR Doc. 91-13162 Filed 6-4-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-2006-000, et al.]

El Paso Natural Gas Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. El Paso Natural Gas Co.

[Docket No. CP91-2006-00]

May 22, 1991.

Take notice that on May 9, 1991, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP91-2006-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a segment of loop pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso requests authorization to construct approximately 3.3 miles of 24-inch diameter pipeline loop between its Keystone mainline station and Keystone field plant site in Winkler County, Texas. El Paso states that the construction and operation of the proposed loop will permit it to receive an additional 60 MMcf per day of gas from Northern Natural Gas Company, A Division of Enron Corp.

El Paso states that the cost of the proposed facilities is approximately \$1.68 million. El Paso indicates that it will finance the proposed construction with internally generated funds.

Comment date: June 12, 1991, in accordance with Standard Paragraph F at the end of this notice.

2. Northwest Pipeline Corporation

[Docket No. CP91-2057-000]

May 22, 1991.

Take notice that on May 15, 1991, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP90-578-000 a request pursuant to § 157.205 (18 CFR 157.205) of the Commission's Regulations for approval to partially abandon existing Redmond Meter Station metering facilities in King County, Washington and to construct and operate upgraded metering facilities at the Redmond Meter Station in order to accommodate existing firm delivery obligations to Washington Natural Gas Company (WNG) under Northwest's blanket certificate issued in Docket No. CP82-433-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest states the existing station, which has a design delivery capacity of approximately 18,000 Dths per day, is inadequate to meet Northwest's current firm maximum daily obligation of up to 32,791 Dths per day to WNG. Northwest would upgrade the existing Redmond facilities by replacing the two six-inch orifice meter runs and the two-inch regulators with two eight-inch orifice meter runs and two four-inch regulators, increasing the design capacity to 43,330 Dths per day at 400 psig, at a cost of \$70,150.

Comment date: July 8, 1991, in accordance with standard Paragraph G at the end of this notice.

3. Northwest Pipeline Corporation

[Docket No. CP91-2058-000]

May 22, 1991.

Take notice that on May 15, 1991, Northwest Pipeline Corporation (NW),

295 Chipeta Way, Salt Lake City, Utah 84108, filed a request with the Commission in Docket No. CP91-2058-000 pursuant to section 7(b) of the Natural Gas Act (NGA), as amended, and part 157 of the Commission's Regulations thereunder for permission and approval to abandon by sale to Snyder Oil Company (Snyder) its Chorney Federal No. 1B well line and to abandon by removal the associated meter station facilities and dehydrator in Carbon County, Wyoming, all as more fully set forth in the request which is open to public inspection.

NW states that since the Chorney Federal No. 1B well line is located approximately 100 miles from its mainline transmission system and it is not economical to tow and operate, and since NW no longer purchases any gas produced from this well, NW has arranged to divest itself of these facilities. NW and Snyder have entered into an agreement whereby NW would sell to Snyder for \$3,000 all rights, title and interest in the Chorney Federal No. 1B line. It is stated that Snyder would operate the line as a non-jurisdictional gathering facility. Further, it is stated that the meter and dehydration facilities on the well line would not be sold to Snyder, but would be removed and salvaged by NW.

Comment date: June 12, 1991, in accordance with Standard Paragraph F at the end of this notice.

4. National Fuel Gas Supply Corporation

[Docket No. CP91-2071-000]

May 22, 1991.

Take notice that on May 16, 1991, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP91-2071-000 a request pursuant to §§ 157.205, 157.211 and 157.212 of the Regulations under the Natural Gas Act (18 CFR 157.205, 157.211 and 157.212) to: (1) Construct and operate sales tap facilities to attach new residential customers of National Fuel Gas Distribution Corporation (Distribution) and one sales tap connection to attach a new cogeneration customer of Distribution; (2) to construct and operate

a sales tap facility with respect to a firm transportation customer, Northern Consolidated Power, Inc. (Norcon); and (3) to add a delivery point to an existing sales customer, Tennessee Gas Pipeline Company (Tennessee); under National Fuel's blanket certificate issued in Docket No. CP83-4-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

National Fuel proposes to construct and operate ten sales tap facilities to serve residential customers in Monroe Township, Clarion County, New York; Hempfield and Otter Creek Townships, Mercer County; Barnett, Eldred and Winslow Townships, Jefferson County; Sandy Township, Clearfield County; Barnett Township, Forest County; Washington Township, Erie County and Millston Township, Elk County, in Pennsylvania, and one sales tap facility in the Town of Tonawanda, Erie County, New York, to serve one cogeneration customer of Distribution. It is stated that the total peak deliveries for the residential customers are estimated to be 16 Mcf and 1,500 annually and would have minimal impact on National's peak day and annual deliveries. (See the attached appendix for the quantities of natural gas proposed to be delivered to the customers at the new sales taps.) In addition, National Fuel proposes to construct and operate a sales tap in North East, Pennsylvania, for the delivery of gas for the account of Norcon with a peak day delivery of up to 16,500 dth. Finally, National Fuel proposes to add a delivery point for Tennessee, with respect to sales under National Fuel's Rate Schedules V-1 and V-2. It is stated that delivery point would be located at the terminus of the UTOS pipeline in Cameron Parish, Louisiana. Also the proposed quantities would be 830,000 dth per year for Tennessee's system supply. National Fuel states that no facilities will be constructed in connection with this change.

Comment date: July 8, 1991, in accordance with standard Paragraph G at the end of this notice.

APPENDIX—RESIDENTIAL CUSTOMERS

Name	Line	Twp & County	Mcf
1. Amos A. Augustine	H-M 175	Hempfield Twp., Mercer Co., PA	150
2. Dales R. King	H-M 175	Otter Creek Twp., Mercer Co., PA	150
3. Dan Snyder	K-4	Barnett Twp., Jefferson Co., PA	150
4. William A. Kulbacki	F-M 98	Sandy Twp., Clearfield Co., PA	150
5. David J. Means	K-182	Barnett Twp., Forest Co., PA	150
6. Loye D. Starzell	K-166	Eldred Twp., Jefferson Co., PA	150
7. Kenneth L. Sturm	Q-18	Washington Twp., Erie Co., PA	150
8. Donald W. Boarts	F-82	Millston Twp., Elk Co., PA	150

APPENDIX—RESIDENTIAL CUSTOMERS—Continued

Name	Line	Twp & County	Mcf
9. Randy L. Snyder.....	F-52	Winslow Twp., Jefferson Co., PA.....	150
10. Paul A. Neely.....	T-9	Monroe Twp., Clarion Co., NY.....	150

COMMERCIAL CUSTOMERS

Customer	Line	Location	Peak day annual deliveries (dth)
OXBOW Power of North Tonawanda, NY, Inc.	X	City of North Tonawanda, Niagara County, NY	13,500 4,927,500

5. Colorado Interstate Gas Co., Texas Gas Transmission Corp.; Stingray Pipeline Co.

[Docket Nos. CP91-2072-000, CP91-2073-000, CP91-2074-000, CP91-2075-000]

May 22, 1991.

Take notice that the above referenced companies (Applicants) filed in respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket

certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.¹

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of

¹ These prior notice requests are not consolidated.

the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also states that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: July 8, 1991, in accordance with standard Paragraph G at the end of this notice.

Docket No. (date filed)	Applicant	Shipper name	Peak day ¹ avg. annual	Points of		Start up date, rate schedule	Related ² dockets
				Receipt	Delivery		
CP91-2072-000 5/17/91	Colorado Interstate Gas Company, P.O. Box 1087, Colorado Springs, CO. 80944.	Texaco Gas Marketing, Inc.	91,680 20,000 7,300,000	WY.....	TX.....	TI-1, Interruptible 4/1/91.	CP86-589-000, ST91-8615-000.
CP91-2073-000 5/17/91	Texas Gas Transmission Corporation, 3800 Frederica Street, Owensboro KY 42301.	Graham Energy Marketing Corporation.	45,000 40,000 14,600,000	Offshore LA, TX, OH, IL, KY, AR, IN.	MS.....	IT, Interruptible 4/12/91.	CP88-686-000, ST91-8362-000.
CP91-2074-000 5/17/91	Texas Gas Transmission Corporation, 3800 Frederica Street, Owensboro KY 42301.	Equitable Resources Marketing Company.	50,000 12,000 4,380,000	Offshore LA, TX, OH, IL, KY, IN, TN.	MS.....	IT, Interruptible 4/12/91.	CP88-686-000, ST91-8358-000.
CP91-2075-000 5/17/91	Stingray Pipeline Company, 701 Est 22nd Street, Lombard, IL 60148.	American Central Gas Companies, Inc.	50,000 25,000 9,125,000	Offshore LA, TX.....	LA, Offshore TX.....	ITS, Interruptible 3/7/91.	Order No. 509, ST91-8027-000.

¹ Quantities are shown in MMBtu unless otherwise indicated.

² The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

6. United Gas Pipe Line Co.

[Docket Nos. CP91-2082-000, CP91-2083-000, CP91-2084-000]

May 22, 1991.

Take notice that on May 17, 1991, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77251-1478, filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket

certificate issued in Docket No. CP88-6-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.²

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket

² These prior notice requests are not consolidated.

numbers of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: July 8, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket No. ³ (date filed)	Shipper name	Peak day ¹ , avg. annual	Points of ²		Start up date, rate schedule, service type	Related docket, contract date
			Receipt	Delivery		
CP91-2082-000 (5-17-91)	Seagull Marketing Services, Inc.	10,300 10,300 3,759,500	OLA, OTX.....	OLA, OTX.....	4-5-91, ITS, Interruptible.	ST91-8588-000, 8-11-86 ⁴ .
CP91-2083-000 (5-17-91)	Bishop Pipeline Corporation.	41,200 41,200 15,038,000	AL, FL, LA, MS, TX.....	LA, TX.....	4-21-91, ITS, Interruptible.	ST91-8585-000, 3-24-88 ⁵ .
CP91-2084-000 (5-17-91)	Enron Gas Marketing, Inc.	515,000 515,000 187,975,000	AL, FL, LA, MS, TX.....	AL, LA, MS, OLA, TX.....	4-19-91, ITS, Interruptible.	ST91-8624-000, 1-20-89 ⁶ .

¹ Quantities are shown in MMBtu.

² Offshore Louisiana and Offshore Texas are shown as OLA and OTX.

³ If an ST docket is shown, 120-day transportation service was reported in it.

⁴ Amended 2-4-91.

⁵ Amended 3-25-91.

⁶ Amended 1-3-91.

Northern Natural Gas Co.

[Docket No. CP91-2085-000]

May 23, 1991.

Take notice that on May 20, 1991, Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP91-2085-000 a request pursuant to §§ 157.205, 157.212, and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212, and 284.223) for authorization to (1) operate and maintain certain existing delivery points and appurtenant facilities as delivery points for jurisdictional service under a Part 284 Subpart G IT-1 Service Agreement and (2) transport natural gas on behalf of Cibola Corporation (Cibola), a marketer of natural gas, beyond the 120 day period provided for in § 284.223(c) of the Commission's Regulations for the entire

duration of the IT-1 service Agreement, under the authorization issued in Docket Nos. CP82-401-000 and CP86-435-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern alleges that this proposal will permit Cibola to obtain flexibility of services at eleven delivery points. The eleven existing delivery points were installed and operated by Northern pursuant to section 311 of the Natural Gas Policy Act and § 284.3(c) of the Commission's Regulations and are restricted to use for Section 311 transportation.³ Northern contends that the maximum estimated volumes to be transported and delivered to Cibola at

³ See the attached appendix for a list of the eleven delivery points.

the affected delivery points is up to 100,000 MMBtu per day with a corresponding impact on Northern's peak day and annual deliveries. Northern states that the volumes to be transported and delivered to Cibola at the proposed delivery points would be made pursuant to an Interruptible Transportation Service Agreement IT-1 Rate Schedule dated February 22, 1991 (transportation agreement no. 5767). It is alleged that Cibola would make the volumes available to various end users. Northern asserts that the proposed activity is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the proposed changes without detriment or disadvantage to Northern's other customers.

Comment date: July 8, 1991, in accordance with Standard Paragraph G at the end of this notice.

APPENDIX—DELIVERY POINTS TO BE CERTIFICATED

Location of project	Description of project	In-service date
Section 18, T106N, R10W, Winona County, Minnesota.....	TBS.....	11/26/90
Section 23, T80, R20W, Jasper County, Iowa.....	TBS.....	11/8/90
Section 8, T8N, R9E, Otoe County, Nebraska.....	TBS.....	12/8/90
Section 29, T115N, R32W, Renville County, Minnesota.....	TBS.....	12/8/90
Section 25, T12N, R13E, Cass County, Nebraska.....	Farm Tap.....	8/14/90

APPENDIX—DELIVERY POINTS TO BE CERTIFICATED—Continued

Location of project	Description of project	In-service date
Section 22, T86N, R22W, Hardin County, Iowa	TBS	11/1/90
Section 9, T80N, R25W, Polk County, Iowa	TBS	12/6/90
Section 22, T4N, R16E, Walworth County, Wisconsin	TBS	11/15/90
Section 36, T87N, R2E, Dubuque County, Iowa	TBS	11/19/90
Section 11, T114N, R23W, Scott County, Minnesota	TBS	12/27/90
Section 12, T103N, R31W, Martin County, Minnesota	TBS	11/7/90

8. High Island Offshore System

[Docket No. CP91-2095-000]

May 24, 1991.

Take notice that on May 22, 1991, High Island Offshore System (HIOS), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP91-2095-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Texarkoma Transportation Company, a marketer, under the blanket certificate issued by the Commission's Order No. 509 corresponding to the rates, terms and conditions filed in Docket No. RP89-82-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

NIOS states that, pursuant to an agreement dated April 1, 1990, under its Rate Schedule IT, it proposes to transport up to 5,000 Mcf per day of natural gas. HIOS indicates that the gas would be transported from Offshore Texas, and would be redelivered in Offshore Texas, and Offshore Louisiana. HIOS further indicates that it would transport 5,000 Mcf on an average day and 1,825,000 Mcf annually.

HIOS advises that service under § 284.223(a) commenced March 14, 1991, as reported in Docket No. ST91-8203-000.

Comment date: July 8, 1991, in accordance with Standard Paragraph G at the end of this notice.

9. Transcontinental Gas Pipe Line Corporation

[Docket No. CP91-2096-000]

May 24, 1991.

Take notice that on May 22, 1991, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP91-2096-000 a request pursuant to § 157.205 of the Commission's

Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Citrus Marketing, Inc., a marketer, under the blanket certificate issued in Docket No. CP88-328-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Transco states that, pursuant to an agreement dated March 21, 1991, under its Rate Schedule IT, it proposes to transport up to 100,000 dt per day equivalent of natural gas. Transco indicates that it would transport 100,000 dt on an average day and 36,500,000 dt annually. Transco further indicates that the gas would be transported from Offshore Louisiana, and would be redelivered in Louisiana.

Transco advises that service under § 284.223(a) commenced April 1, 1991, as reported in Docket No. ST91-8435.

Comment date: July 8, 1991, in accordance with Standard Paragraph G at the end of this notice.

10. Ashland Exploration, Inc.

[Docket No. CP91-2070-000]

May 24, 1991.

Take notice that on May 16, 1991, Ashland Exploration, Inc. (Ashland), 14701 St. Mary's Lane, Houston, Texas 77079, filed in Docket No. CP91-2070-000 an application pursuant to section 7 of the Natural Gas Act and subpart F of part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction and operation of certain facilities, for permission and approval to abandon certain facilities, and to perform other minor transactions eligible thereunder, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that such a certificate would allow Ashland, among other

things, to make miscellaneous rearrangements and additions to its facilities with a minimum of delay in order to more effectively provide service through its facilities. Ashland states that it has no outstanding budget-type certificates and has no storage service rate schedules. Ashland states that it sells gas produced by it and transported through its jurisdictional facilities to Mountaineer Gas Company, which sale is exempt from the provision of the NGA under Section 601 of the NGA. Ashland states that it will comply with the terms, conditions, and procedures specified in subpart F of part 157 of the Commission's Regulations.

Comment date: June 14, 1991, in accordance with Standard Paragraph F at the end of this notice.

11. CNG Transmission Corporation

[Docket No. CP91-2077-000]

May 24, 1991.

Take notice that on May 17, 1991, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26302-2450, filed in Docket No. CP91-2077-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for thirteen shippers, as listed in the appendix below, under CNG's blanket certificate issued in Docket No. CP86-311-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CNG proposes to transport gas for the shippers listed below on an interruptible basis from various receipt points on its system to various interconnections between CNG and certain local distribution companies and pipelines.

Comment date: July 8, 1991, in accordance with Standard Paragraph G at the end of this notice.

Appendix, Page 1, of 1

Shipper	Date	ST docket	Peak day; avg., annual vol. (Dt)
Fulton Cogeneration Associates.....	4/1/91	ST91-8547	12,300; 10,969, 4,003,685
Indeck Energy Services Inc.....	4/1/91	ST91-8556	5,000; 3,042, 1,110,330
Bethlehem Steel Corporation.....	4/2/91	ST91-8552	50,000; 15,000, 5,475,000
Citizen's Gas Supply Corp.....	4/3/91	ST91-8553	25,000; 10, 3,650
Citizen's Gas Supply Corp.....	4/3/91	ST91-8554	25,000; 10, 3,650
Access Energy Corporation.....	4/3/91	ST91-8549	750; 331, 120,815
Santanna Natural Gas Corp.....	3/26/91	ST91-8413	11,225; 50, 18,250
Santanna Natural Gas Corp.....	3/26/91	ST91-8414	11,225; 50, 18,250
Phoenix Diversified Ventures, Inc.....	3/27/91	ST91-8412	3,000; 200, 73,000
American Central Gas Companies, Inc.....	4/16/91	ST91-8555	75,000; 48, 17,520
American Central Gas Companies, Inc.....	4/16/91	ST91-8546	75,000; 48, 17,520
Bethlehem Steel Corporation.....	4/8/91	ST91-8557	8,000; 50, 18,250
Wabash Alloy Division-Connell.....	4/11/91	ST91-8551	5,000; 1,575, 574,875

12. Transwestern Pipeline Co.; Florida Gas Transmission Co.; Florida Gas Transmission Co.

[Docket Nos. CP91-2087-000, CP91-2088-000, CP91-2089-000]

May 24, 1991.

Take notice that Transwestern Pipeline Company, 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, and Florida Gas Transmission Company, 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, (Applicants) filed in the above-referenced dockets prior notice requests

pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket No. CP88-133-000 and Docket No. CP89-555-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.*

* These prior notice requests are not consolidated.

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: July 8, 1991, in accordance with Standard Paragraph G at the end of this notice.

Appendix—Page 1 of 1

Docket No. (date filed)	Shipper name (type)	Peak day average day annual MMBtu	Receipt points ¹	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-2087-000 (5-21-91)	Gulf Gas Utilities Co. (marketer)	6,000 4,500 2,290,000	AZ, NM, OK, TX	NM, OK, TX	3-20-91, ITS-1, Interruptible.	ST91-8699, 5-6-91.
CP91-2088-000 (5-21-91)	City of Starke	340 72 26,040	TX, OTX, OLA, LA, MS, AL, FL	FL	5-1-91, FTS-1, Firm.	ST91-8652, 5-1-91.
CP91-2089-000 (5-21-91)	HGX Gas Transmission Corp.	10,000 7,500 3,650,000	TX, OTX, OLA, LA, MS, LA, FL	TX	5-1-91, ITS-1, Interruptible.	ST91-8651, 5-1-91.

¹ Offshore Louisiana and offshore Texas are shown as OLA and OTX.

13. Texas Eastern Transmission Corporation

[Docket No. CP88-136-026]

May 24, 1991.

Take notice that on May 10, 1991, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056-5310, filed in Docket No. CP88-136-026 an application pursuant to section 7 of the Natural Gas Act to amend its certificate of public convenience and necessity issued in Docket No. CP88-136-000, as amended, to increase the level of annual transportation quantity

level authorized for Associated Natural Gas Company (Associated), all as more fully described in the petition to amend that is on file with the Commission and open to public inspection.

Texas Eastern seeks authority to increase the annual transportation quantity level for Associated from 875,000 Dth to 1,825,000 Dth in order to receive their authorized maximum daily transportation quantity (MDQT) for 365 days a year. Texas Eastern states that it is authorized by Commission order issued September 29, 1988 in Docket No. CP88-136-000, as amended August 22,

1989 in CP88-135-007, to provide various services to customers desiring to convert their sales entitlement with Texas Eastern to new service agreements under rate schedules CD-1, CD-2, FT-1, and IT-1. It is further stated that in compliance with the Commission's order Texas Eastern filed a new FT-1 service agreement for Associated which established an annual transportation quantity (ATQ) level of 875,000 Dth while the MDTQ level was 5,000 Dth. It is stated that Associated has been unable to take their authorized MDTQ 365 days a year under this service

agreement because of the lower ATQ authorized.

Texas Eastern states that pursuant to a service agreement dated April 16, 1991, it will offer firm transportation service under Rate Schedule FT-1 at the originally certificated MDTQ 365 days a year.

Comment date: June 14, 1991, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

14. South Georgia Natural Gas Co.

[Docket No. CP91-2076-000]

May 24, 1991.

Take notice that on May 17, 1991, South Georgia Natural Gas Company (South Georgia), Post Office Box 2563, Birmingham, Alabama 35202-2563, filed a request with the Commission in Docket No. CP91-2076-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to increase the contract delivery pressures at two existing delivery points, pursuant to its blanket certificate issued in Docket No. CP82-548-000, all as more fully described in the request which is open to public inspection.

South Georgia proposes to increase the contract delivery pressures at the Albany Nos. 1 and 2 delivery points, Dougherty County, Georgia, used for delivering natural gas it sells to the Water, Gas and Light Commission of Albany (Albany). At Albany's request, South Georgia proposes to increase the delivery pressure at Albany No. 1 from 30-150 psig to 300-500 psig. South Georgia also proposes to increase the delivery pressure at Albany No. 2 from 30-150 psig to 150-300 psig. South Georgia would not have to construct or remove any facilities as a result of the proposed changes in delivery pressures. South Georgia also states that the

proposed increases in delivery pressures would not cause any termination of service, nor result in any change to Albany's contract demand. The proposed increase in delivery pressures would have no significant impact on South Georgia's peak day and annual deliveries. South Georgia's tariff does not prohibit changes in delivery pressures.

Comment date: July 8, 1991, in accordance with Standard Paragraph G at the end of this notice.

15. Stingray Pipeline Co.

[Docket No. CP91-2090-000]

May 24, 1991.

Take notice that on May 22, 1991, Stingray Pipeline Company (Stingray), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP91-2090-000 a request pursuant to § 157.205 of the Commission's Regulations (18 CFR 157.205) for authorization to transport natural gas for Transtate Gas Service Company (Transtate), a marketer of natural gas, under Stingray's Order No. 509 blanket authorization pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Stingray states that it would transport, on an interruptible basis, up to 50,000 MMBtu equivalent of natural gas on a peak day, 25,000 MMBtu equivalent on an average day and 9,125,000 MMBtu equivalent on an annual basis. It is stated that Stingray would receive the gas receipt points on Stingray's system in Louisiana, offshore Louisiana and offshore Texas and would deliver equivalent volumes of gas in Louisiana and offshore Texas. It is further stated that the transportation service would be effected using existing facilities and would require no construction of additional facilities. It is explained that the transportation service commenced

February 16, 1990, under the automatic authorization provisions of § 284.223 of the Commission's Regulations and reported in Docket No. ST91-8029.

Comment date: July 8, 1991, in accordance with Standard Paragraph G at the end of this notice.

16. ANR Pipeline Co., Northern Natural Gas Co., Trunkline Gas Co.

[Docket Nos. CP91-2098-000, CP91-2099-000, CP91-2100-000, CP91-2101-000, CP91-2102-000]

May 24, 1991.

Take notice that on May 23, 1991, Applicants filed in the above-referenced dockets prior notice requests pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued to Applicants pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.⁵

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix A. Applicants' addresses and transportation blanket certificates are shown in the attached appendix B.

Comment date: July 8, 1991, in accordance with Standard Paragraph G at the end of this notice.

⁵ These prior notice requests are not consolidated.

Appendix A—Page 1 of 1

Docket No. (date filed)	Shipper name (type)	Peak day average day annual Dth	Receipt points ¹	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-2098-000 (5-23-91)	Fort Howard Corporation (End- user).	1,650 1,650 602,250	OLA, LA	WI	2-25-91, FTS-1, Firm.	ST91-8242-000, 4-2-91.
CP91-2099-000 (5-23-91)	Briggs & Stratton Corporation (End- user).	1,400 1,173 428,145	MI, WI	MI, WI	1-15-91, FTS-1, Firm.	ST91-8235-000, 4-1-91.
CP91-2100-000 (5-23-91)	Wolverine Power Supply Cooperative, Inc. (End-user).	1,000 1,000 365,000	OLA, OTX, LA, OK, KS, TX	MI	3-7-91, ITS, Interruptible.	ST91-8273-000, 4-2-91.
CP91-2101-000 (5-23-91)	Salmon Resources, Ltd. (Marketer).	500,000 375,000	IA, SD, MN	TX, KS, WI, IA	3-1-88, IT-1, Interruptible.	ST88-2550-000, * 1-31-88.
		*182,500,000				

Docket No. (date filed)	Shipper name (type)	Peak day average day annual Dth	Receipt points ¹	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-2102-000 (5-23-91)	Exxon Corporation (Producer).	25,000 25,000 * 9,125,000	OLA, OTX, IL, LA, TN, TX.	LA.....	4-15-91, PT, Interruptible.	ST91-8627-000, 4-18-91.

¹ Offshore Louisiana and offshore Texas are shown as OLA and OTX.

* Service terminated May 29, 1988.

² Northern's quantities are in MMBtu.

³ Trunkline's quantities are in Mcf.

Appendix B—Page 1 of 1

Applicant's address	Blanket docket
ANR Pipeline Co., 500 Renaissance Center, Detroit, Michigan 48243.	CP88-532-000
Northern Natural Gas Co., 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188.	CP86-435-000
Trunkline Gas Co., P.O. Box 1642, Houston, Texas 77251-1642.	CP86-586-000

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 91-13159 Filed 6-4-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-2030-000, et al.]

Natural Gas Certificate Filings; Transcontinental Gas Pipe Line Corp., et al.

1. Transcontinental Gas Pipe Line Corp.

[Docket No. CP91-2030-000]

May 28, 1991.

Take notice that on May 13, 1991, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP91-2030-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to perform an interruptible transportation service for Citizens Gas Supply Corporation (Citizens) under the blanket certificate issued in Docket No. CP88-328-000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transco states that it would receive the gas at specified points located in onshore and offshore Texas and Louisiana, Mississippi, and Pennsylvania and redeliver the gas at specified points located in New York and offshore Texas. Transco estimates peak day, average day, and annual volumes of 250,000, 60,000, and 21,900,000 dt equivalent of natural gas, respectively. It is stated that Transco initiated a 120-day transportation service for Citizens on July 1, 1990, as reported in Docket No. ST91-8570-000.

Transco states that no new facilities would be required to implement the service and that it would charge rates as provided on Sheet No. 19 of Transco's FERC Gas Tariff, Second Revised Volume No. 1.

Comment date: July 12, 1991, in accordance with Standard Paragraph G at the end of this notice.

2. Northern Natural Gas Co.

[Docket Nos. CP91-2091-000,¹ CP91-2092-000, CP91-2093-000]

May 28, 1991.

Take notice that on May 22, 1991, Northern Natural Gas Company (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to transport natural gas on behalf of various shippers under its blanket certificates issued in Docket No. CP86-435-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the contract date of the interruptible transportation agreement between Northern and the respective shipper, the transportation agreement number, function of the shipper, i.e.,

¹ These prior notice requests are not consolidated.

marketer, producer, intrastate pipeline, etc., the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket number and initiation dates of the 120-day transactions under § 284.223 of the

Commission's Regulations has been provided by Northern and is included in the attached appendix.

Northern alleges that it would provide the proposed service for each shipper under an executed gas transportation agreement and would charge rates and

abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: July 12, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket No. (trans. agree. tran. agr. No.)	Shipper name	Shipper's function	Peak day ¹ avg. annual	Points of		Start up date rate schedule service type	Related ² Dockets
				Receipt	Delivery		
CP91-2091-000 4-18-91 (5875)	Union Pacific Fuels, Inc.	Marketer	88,457 66,343 32,286,805	OFF TX, TX, & LA	OFF LA & LA	4-18-91, IT-1, Interruptible.	ST91-8580-000.
CP91-2092-000 4-26-91 (5981)	Richardson Products Company.	Marketer	75,000 56,250 27,375,000	Various Existing Points.	TX	4-26-91, IT-1, Interruptible.	ST91-8635-000.
CP91-2093-000 5-2-91 (5997)	Elf Exploration, Inc.	Producer	20,000 15,000 7,300,000	TX	TX	5-2-91, IT-1, Interruptible.	ST91-8636-000.

¹ Quantities are shown in MMBtu.

² The ST docket indicates that 120-day transportation service was initiated under Section 284.223(a) of the Commission's Regulations.

3. El Paso Natural Gas Co.

[Docket No. CP91-2094-000]

May 29, 1991.

Take notice that on May 22, 1991, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP91-2094-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for PSI Gas Marketing, Inc./Utilicorp, a broker, under the blanket certificate issued in Docket No. CP88-433-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

El Paso states that, pursuant to an agreement dated March 28, 1991, under its Rate Schedule T1, it proposes to transport up to 56,650 MMBtu per day equivalent of natural gas. El Paso indicates that the gas would be transported from receipt points located in Colorado, and New Mexico, and would be redelivered at delivery points located in New Mexico. El Paso further indicates that it would transport 10,000 MMBtu on an average day and 3,650,000 MMBtu annually.

El Paso advises that service under § 284.223(a) commenced April 1, 1991, as reported in Docket No. ST91-8201.

Comment date: July 15, 1991, in accordance with Standard Paragraph G at the end of this notice.

4. Arkla Energy Resources; a Division of Arkla, Inc.

[Docket No. CP91-2069-000]

May 29, 1991.

Take notice that on May 16, 1991, Arkla Energy Resources (AER), a division of Arkla, Inc., 525 Milam Street, Shreveport, Louisiana 71151, filed in Docket No. CP91-2069-000, an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities in connection with the realignment of pipelines connecting AER's northern and southern systems and for authority to abandon a segment of its existing transmission facilities in that area, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, AER requests authority to increase from 800 psig to 1,000 psig the maximum allowable operating pressure of its Line S-3-S which Line was originally constructed pursuant to § 2.55 of the Commission's Regulations as a replacement for Line S, and to install connections permitting Line S-3-S to assist in satisfying requirements served from existing Line L and the proposed reactivated segment of Line S.

AER also proposes to install facilities permitting the return to service of a segment of Line S (a) between AER's Perla Regulator Station (Perla) and AER's Beirne Compressor Station (Beirne) to provide backup capability for the performance of the service currently provided by AER's Lines A and L, (b) to provide a new source of supply to that portion of Line L between Beirne and the Hamilton plant site (Hamilton), and (c)

between Perla and Hamilton to perform some of the services currently performed by AER's replacement Line S-3-S.

Further AER proposes to make the modifications necessary to permit the use of AER's Line L between Perla and Beirne to perform the services currently performed by Lines A and L between the same points; and to abandon the portion of AER's Line A between Perla and Beirne.

AER states that the estimated cost of the proposed facilities is \$4,043,481. The proposed facility cost will be financed through internally generated funds.

AER asserts that its proposal will enhance the reliability and safety of the service AER renders and increase the pipeline capacity by approximately 83,000 Mcf per day and operational flexibility in a critical portion of AER's system.

Comment date: June 19, 1991, in accordance with Standard Paragraph G at the end of this notice.

Columbia Gulf Transmission Co., et al.

[Docket Nos. CP91-2109-000, CP91-2110-000, CP91-2111-000, CP91-2112-000, CP91-2113-000]

May 29, 1991.

Take notice that on May 24, 1991, Applicants filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued to Applicants pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on

file with the Commission and open to public inspection.²

Information applicable to each transaction, including the identity of the shipper, the type of transportation

² These prior notice requests are not consolidated.

service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the

attached Appendix A. Applicants' addresses and transportation blanket certificates are shown in the attached appendix B.

Comment date: July 15, 1991, in accordance with Standard Paragraph G at the end of this notice.

Appendix A—page 1 of 1

Docket No. (date filed)	Shipper name (type)	Peak day average day annual MMBtu	Receipt points ¹	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP91-2109-000 (5-24-91)	Hadson Gas Systems, Inc. (Marketer).	121,500 50,000 18,250,000	OLA, LA.....	OLA, LA.....	4-1-87 ² , ITS-2, Interruptible.	ST91-8614-000, 4-13-91.
CP91-2110-000 (5-24-91)	Clinton Gas Marketing, Inc. (Marketer).	108,770 87,016 39,701,050	Various.....	³	9-6-90 ² , ITS, Interruptible.	ST91-7885-000, 3-18-91.
CP91-2111-000 (5-24-91)	Yuma Gas Corporation (Marketer).	50,000 40,000 18,250,000	Various.....	NC.....	9-10-90, ITS, Interruptible.	ST91-8429-000, 4-1-91.
CP91-2112-000 (5-24-91)	Appalachian Gas Sales (Marketer).	10,000 8,000 3,650,000	Various.....	Various.....	11-1-89 ² , ITS, Interruptible.	ST91-8253-000, 3-27-91.
CP91-2113-000 (5-24-91)	Coastal Gas Marketing Company (Marketer).	19,899 ⁴ 7,263,135 ⁵	ND, MT, WY.....	WY, ND, SD, MT.....	6-19-90 ² , IT-1, Interruptible.	ST91-8639-000, 4-29-91.

¹ Offshore Louisiana is shown as OLA.

² As amended.

³ The gas would be delivered to Equitrans, PA, for the account of Clinton.

⁴ Williston Basin advises that Coastal estimates there would be no increase in average day quantities as a result of the proposal. It is stated that this filing is being made to reflect an amendment dated April 29, 1991, which provides for increase in peak day quantities of 19,899 dekatherms (Maximum Daily Contract Quantity of 71,484 dekatherms). It is stated that previous related authorizations were issued in Docket Nos. CP90-1765-000 and CP91-943-000.

⁵ Williston Basin's quantities are in dekatherms.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within

the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,
Secretary.

[FR Doc. 91-13161 Filed 6-4-91; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP88-227-023]

Paiute Pipeline Co.; Proposed Changes in FERC Gas Tariff

May 29, 1991.

Take notice that Paiute Pipeline Company (Paiute) on May 28, 1991 tendered for filing certain tariff sheets to be substituted in lieu of their counterparts tendered in Paiute's April 25, 1991 compliance filing as part of Paiute's proposed First Revised Volume No. I-A:

Substitute Original Sheet No. 23
Substitute Original Sheet No. 63
Substitute Original Sheet No. 64
Substitute Original Sheet No. 65
Substitute Original Sheet No. 66
Substitute Original Sheet No. 67
Substitute Original Sheet No. 68
Substitute Original Sheet No. 69

Substitute Original Sheet No. 70
 Substitute Original Sheet No. 72
 Substitute Original Sheet No. 74
 Substitute Original Sheet No. 75
 Substitute Original Sheet No. 76
 Substitute Original Sheet No. 77
 Original Sheet No. 77A

Paiute reiterates its request in its compliance filing that its proposed First Revised Volume No. 1-A, including the above substitute tariff sheets, be accepted and placed into effect on June 1, 1991.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such protests should be filed on or before June 5, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-13180 Filed 6-4-91; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 91-16-NG]

Husky Gas Marketing, Inc.; Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued an order granting Husky Gas Marketing, Inc. blanket authorization to import up to 50 Bcf of Canadian natural gas for a two-year term beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, May 29, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91-13236 Filed 6-4-91; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed During the Week of April 26 through May 3, 1991

During the Week of April 26 through May 3, 1991, the appeal and applications for other relief listed in the appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: May 29, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of April 26 through May 3, 1991]

Date	Name and location of applicant	Case No.	Type of submission
05/01/91.....	Arco/Manassas Ice and Fuel Co., Washington, DC.....	RR304-12	Request for Modification/Rescission in the Arco Refund Proceeding. If granted: The December 6, 1989 Decision and Order (Case No. RF304-2939) issued to Manassas Ice and Fuel Company, Inc. would be modified regarding the firm's application for refund submitted in the Arco refund proceeding.
05/01/91.....	Gulf/Holmes Oil Company, Inc. Washington, DC.....	RR300-21	Request for Modification/Rescission in the Gulf Refund Proceeding. If granted: The March 20, 1989 Decision and Order (Case No. RF300-5228) issued to Holmes Oil Company, Inc. would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.
05/02/91.....	Texaco/231 Texaco, Ranburne, AL.....	RR321-62	Request for Modification/Rescission in the Texaco Refund Proceeding. If granted: The April 16, 1991 Decision and Order (Case Nos. RF321-13477 & 13859) issued to 231 Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
05/02/91.....	Ronald B. O'Dowd, Albuquerque, NM.....	LFA-0117	Reconsideration of an Information Request Decision and Order. If granted: The Department of Energy would reconsider its March 4, 1991 Decision and Order remanding a request for information submitted by Keith D. Britt to the Albuquerque Operations Office.

REFUND APPLICATIONS RECEIVED

[Week of April 26 to May 3, 1991]

Date received	Name of refund proceeding/name of refund applicant	Case No.
04/29/91	Swanville Sch Dist.	RF272-89300
04/29/91	Transportation Lease Corp.	RF272-89301
04/29/91	Tri State Gas & App. Co., Inc.	RF272-89302
04/29/91	Hanger One, Inc.	RF315-10144
04/29/91	Western Furnaces, Inc.	RF315-10145
04/29/92	State of North Carolina.	RA272-39
04/30/91	Rogers Texaco Service Station.	RF272-89303
04/30/91	Tri-State Propane, Inc.	RF272-89304
04/30/91	Stratford Board of Education.	RF272-89305
04/30/91	Calumet Public Schools Dist.	RF272-89306
04/30/91	Mountainside School District.	RF272-89307
04/30/91	Seaboard Asphalt Products Co.	RF272-89308
04/30/91	Pschirrer Asphalt Co.	RF272-89309
04/30/91	Champagne Beverage Co.	RF272-89310
04/30/91	A-1 Paving.....	RF272-89311
04/30/91	Marion Wachel, Jr.	RF307-10187
05/01/91	Vincent Ganduglia Trucking.	RF327-4
05/01/91	Vincent Ganduglia Trucking.	RF328-3
05/03/91	Benefield Distributing Co.	RF326-267
05/02/91	Huff Petroleum Co.	RF334-8
05/03/91	Clarence J. Rulon.	RF307-10188
04/23/91	Chrysler Motors Corp.	RA272-38
04/26/91 thru 05/03/91	Gulf Oil Refund Applications Received.	RF300-14659 thru RF300-16656
04/26/91 thru 05/03/91	Texaco Refund Applications Received.	RF321-14960 thru RF321-15014
04/26/91 thru 05/03/91	Atlantic Richfield Applications Received.	RF304-12219 thru RF304-12282
04/26/91 thru 05/03/91	Quantum Chemical Corp. Applications Received.	RF330-2 thru RF330-19

[FR Doc. 91-13237 Filed 6-4-91; 8:45 am]

BILLING CODE 6450-01-M

Southeastern Power Administration

Order Confirming and Approving Power Rates on an Interim Basis

AGENCY: Southeastern Power Administration (Southeastern), Department of Energy.

ACTION: Notice of approval on an interim basis of the Georgia-Alabama-South Carolina Projects' rates.

SUMMARY: On May 24, 1991, the Deputy Secretary confirmed and approved, on an interim basis, a new Rate Schedule GAMF-3-A, for Georgia-Alabama-South Carolina Projects' power. The rates were approved on an interim basis through September 30, 1993, and are subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

DATES: Approval of rates on an interim basis is effective on June 1, 1991.

FOR FURTHER INFORMATION CONTACT:

Leon Jourolmon, Jr., Director, Power Marketing Division, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635.

Rodney L. Adelman, WDC, Director, Washington Liaison Office, Forrestal Building, 1000 Independence Ave. SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission by Order issued April 3, 1991, in Docket No. EF90-3011-000 confirmed and approved Wholesale Power Rate Schedules GA-1-C, GA-2-C, GA-3-B, GU-1-C, ALA-1-G, ALA-3-C, MISS-1-G, MISS-2-C, SC-3-B, SC-4-A, SC-5-A, CAR-3-B, CAR-4-A, SCE-2-B, SCE-4-A, and GAMF-2-F through September 30, 1993. Rate Schedule GAMF-3-A is a new rate schedule.

Issued in Washington, DC, May 24, 1991.

W. Henson Moore,

Deputy Secretary.

In the Matter of:
Southeastern Power Administration—
Georgia-Alabama-South Carolina Projects' Power Rates

Rate Order No. SEPA-29

Order Confirming and Approving Power Rates on an Interim Basis

Pursuant to sections 302(a) and 310(b) of the Department of Energy Organization Act, Public Law 95-91, the functions of the Secretary of the Interior and the Federal Power Commission under section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (Southeastern) were transferred to and vested in the Secretary of Energy. By

Delegation Order No. 0204-108, effective May 30, 1986, 51 FR 19744 (May 30, 1986), the Secretary of Energy delegated to the Administrator the authority to develop power and transmission rates, and delegated to the Under Secretary the authority to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission the authority to confirm and approve on a final basis or to disapprove rates developed by the Administrator under the delegation. On August 3, 1990, the Secretary of Energy issued Notice SEN-10D-90, published in 56 FR 14519 (April 10, 1991), granting the Deputy Secretary sign off authority respecting matters for which the Assistant Secretary, Conservation and Renewable Energy, is responsible. The Southeastern, Southwestern, and Alaska Power Administrations organizationally report to the Assistant Secretary, Conservation and Renewable Energy. This rate order is issued by the Deputy Secretary pursuant to said notice.

Background

Power from the Georgia-Alabama-South Carolina System of Projects is presently sold under Wholesale Power Rate Schedules GA-1-C, GA-2-C, GA-3-B, GU-1-C, ALA-1-G, ALA-3-C, MISS-1-G, MISS-2-C, SC-3-B, SC-4-A, SC-5-A, CAR-3-B, CAR-4-A, SCE-2-B, SCE-4-A, and GAMF-2-F. All of these rate schedules were approved by the FERC on April 3, 1991, for a period ending September 30, 1993.

Public Notice and Comment

Opportunities for public review and comment on the Rate Schedules proposed for use during the period June 1, 1991, through September 30, 1993, were announced by Notice published in the *Federal Register* on March 8, 1991, and all customers were notified by mail. A Public Information and Comment Forum was held in Atlanta, Georgia, on April 9, 1991, and written comments were invited by the Notice through April 24, 1991. Oral comments were presented at the forum and no written comments were received prior to April 24, 1991. There were no substantive comments received.

Discussion

System Repayment

Southeastern Power Administration proposed a set of rate schedules effective October 1, 1990, which were approved on a final basis by the Federal Energy Regulatory Commission on April 3, 1991. Those rates did not anticipate Southeastern buying pumping energy

and delivering the generated energy to the preference customers. Southeastern expected the present arrangement to continue where the Southern Companies would provide the pumping energy and receive the generated energy. Southeastern is proposing this amendment to the rate filing to pass the costs of the unanticipated costs to the preference customers.

Environmental Impact

Southeastern has reviewed the possible environmental impacts of the rate adjustment under consideration and has concluded with Departmental concurrence that, because the increased rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, the proposed action is not a major Federal action for which preparation of an

Environmental Impact Statement is required.

Availability of Information

Information regarding these rates, including studies, and other supporting materials is available for public review in the offices of Southeastern Power Administration, Samuel Elbert Building, Elberton, Georgia 30635, and in the Washington Liaison Office, James Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585.

Submission to the Federal Energy Regulatory Commission

The rates hereinafter confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis for a period beginning June 1, 1991,

and ending no later than September 30, 1993.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective June 1, 1991, attached Wholesale Power Rate Schedule GAMF-3-A. The rate schedule shall remain in effect on an interim basis through September 30, 1993, unless such period is extended to until the Federal Energy Regulatory Commission confirms and approves them or substitute rate schedules on a final basis.

Issued in Washington, DC, this 24 day of May 1991.

W. Henson Moore,
Deputy Secretary.

GEORGIA-ALABAMA SYSTEM

[Comparison of Current and Proposed Rates and Revenues]

	Rates			Revenues (in thousands of dollars)			
	Present	Proposed		Present		Proposed	
		10/01/90 through 05/31/91	06/01/91 through 09/30/93	10/01/90 through 05/31/91	06/01/91 through 09/30/93	10/01/90 through 05/31/91	06/01/91 through 09/30/93
GA-1-C							
Capacity—\$/kw/mo.....	\$1.76	\$2.57	\$2.67	\$7,573	\$8,869	\$11,185	\$13,610
Energy—mills/kwh.....	8.50	7.21	7.21	6,437	6,437	5,460	5,460
Other transmission—\$/kw/mo.....	0.20	0.20	0.20	870	1,019	870	1,019
Transmission—\$/kw/mo.....	(0.11)	(0.10)	(0.10)	(479)	(560)	(435)	(509)
GA-2-C							
Capacity—\$/kw/mo.....	1.74	2.57	2.67	9,730	11,326	14,372	17,380
Energy—mills/kwh.....	8.50	7.21	7.21	8,347	8,347	7,080	7,080
Other transmission—\$/kw/mo.....	0.20	0.20	0.20	1,118	1,302	1,118	1,302
Transmission—\$/kw/mo.....	(0.11)	(0.10)	(0.10)	(615)	(715)	(559)	(650)
GA-3-B							
Capacity—\$/kw/mo.....	1.74	2.57	2.67	50	58	73	89
Energy—mills/kwh.....	8.50	7.21	7.21	142	142	121	121
Other transmission—\$/kw/mo.....	0.20	0.20	0.20	6	7	6	7
Transmission—\$/kw/mo.....	2.85	2.86	2.86	81	95	81	96
ALA-3-C							
Capacity—\$/kw/mo.....	1.74	2.57	2.67	4,500	5,345	6,647	8,202
Energy—mills/kwh.....	8.50	7.21	7.21	3,939	3,939	3,342	3,342
Other transmission—\$/kw/mo.....	0.20	0.20	0.20	517	614	517	614
Transmission—\$/kw/mo.....	1.43	1.44	1.44	3,699	4,394	3,724	4,424
MISS-2-C							
Capacity—\$/kw/mo.....	1.74	2.57	2.67	1,118	1,295	1,651	1,986
Energy—mills/kwh.....	8.50	7.21	7.21	954	954	809	809
Other transmission—\$/kw/mo.....	0.20	0.20	0.20	129	149	129	149
Transmission—\$/kw/mo.....	0.86	0.87	0.87	553	640	559	648
GU-1-C							
Capacity—\$/kw/mo.....	1.74	2.57	2.67	142	167	210	256
Energy—mills/kwh.....	8.50	7.21	7.21	123	123	104	104
Other transmission—\$/kw/mo.....	0.20	0.20	0.20	16	19	16	19
Transmission—\$/kw/mo.....	1.63	1.70	1.70	138	162	139	163
GAMF-2-F							
Capacity—\$/kw/mo.....	1.59	2.26		5,266		7,485	
ALA-1-G							
Capacity—\$/kw/mo.....	1.59	2.26	2.26	1,736	1,736	2,468	2,468
Energy—mills/kwh.....	8.50	7.21	7.21	1,469	1,469	1,246	1,246
Other transmission—\$/kw/mo.....	0.20	0.20	0.20	218	218	218	218
Transmission—\$/kw/mo.....		(0.10)	(0.10)			(109)	(109)
MISS-1-G							
Capacity—\$/kw/mo.....	1.59	2.26	2.26	1,164	1,164	1,654	1,654
Energy—mills/kwh.....	8.50	7.21	7.21	736	736	624	624
Other transmission—\$/kw/mo.....	0.20	0.20	0.20	146	146	146	146
Transmission—\$/kw/mo.....	0.59	0.60	0.60	432	432	439	439

GEORGIA-ALABAMA SYSTEM—Continued
[Comparison of Current and Proposed Rates and Revenues]

	Rates			Revenues (in thousands of dollars)			
	Present	Proposed		Present		Proposed	
		10/01/90 through 05/31/91	06/01/91 through 09/30/93	10/01/90 through 05/31/91	06/01/91 through 09/30/93	10/01/90 through 05/31/91	06/01/91 through 09/30/93
SC-4-A							
Capacity—\$/kw/mo.....	1.59	2.26	2.26	2,003	2,003	2,848	2,848
Energy—mills/kwh.....	4.88	7.21	7.21	1,001	1,001	1,479	1,479
Energy surcharge—mills/kwh.....							
Other transmission—\$/kw/mo.....		1.96	1.96		402	402	402
Transmission—\$/kw/mo.....	0.20	0.20	0.20	252	252	252	252
SC-5-A							
Capacity—\$/kw/mo.....	1.66	2.35	2.35	1,992	1,992	2,820	2,820
Energy—mills/kwh.....	4.88	7.21	7.21	1,252	1,252	1,849	1,849
Energy surcharge—mills/kwh.....		1.96	1.96			503	503
Other transmission—\$/kw/mo.....							
Transmission—\$/kw/mo.....	1.42	1.42	1.42	1,704	1,704	1,704	1,704
Transmission—\$/kw/mo.....	0.20	0.20	0.20	240	240	240	240
SC-3-B							
Capacity—\$/kw/mo.....	1.66	2.35	2.35	120	120	169	169
Energy—mills/kwh.....	8.50	7.21	7.21	131	131	111	111
Other transmission—\$/kw/mo.....	0.20	0.20	0.20	14	14	14	14
Transmission—\$/kw/mo.....	1.42	1.42	1.42	102	102	102	102
CAR-4-A							
Capacity—\$/kw/mo.....	1.95	2.77	2.77	659	659	936	936
Energy—mills/kwh.....	4.88	7.21	7.21	328	328	484	484
Energy surcharge—mills/kwh.....		1.96	1.96			132	132
Other transmission—\$/kw/mo.....	0.20	0.20	0.20	68	68	68	68
Transmission—\$/kw/mo.....	1.33	1.33	1.33	449	449	449	449
CAR-3-B							
Capacity—\$/kw/mo.....	1.95	2.77	2.77	3,892	3,892	5,529	5,529
Energy—mills/kwh.....	8.50	7.21	7.21	2,674	2,674	2,268	2,268
Other transmission—\$/kw/mo.....	0.20	0.20	0.20	399	399	399	399
Transmission—\$/kw/mo.....	1.33	1.33	1.33	2,655	2,655	2,655	2,655
SCE-4-A							
Capacity—\$/kw/mo.....	1.98	2.78	2.78	38	38	53	53
Energy—mills/kwh.....	4.88	7.21	7.21	7	7	10	10
Energy surcharge—mills/kwh.....		1.96	1.96			3	3
Other transmission—\$/kw/mo.....	0.20	0.20	0.20	4	4	4	4
Transmission—\$/kw/mo.....	1.87	1.87	1.87	36	36	36	36
SCE-2-B							
Capacity—\$/kw/mo.....	1.96	2.78	2.78	268	268	380	380
Energy—mills/kwh.....	8.50	7.21	7.21	82	82	70	70
Other transmission—\$/kw/mo.....	0.20	0.20	0.20	27	27	27	27
Transmission—\$/kw/mo.....	1.87	1.87	1.87	256	256	256	256
GAMF-3-A							
Energy—mills/kwh.....			23.33				4,910
Total Power Revenues.....				80,908	80,682	97,642	103,569
Estimated Headwater Benefits.....				796	796	796	796
Estimated Corps Revenues.....				2,292	2,406	2,292	2,406
Total Revenue.....				83,996	83,884	100,730	106,771

Wholesale Power Rate Schedule GAMF-3-A

Availability: This rate schedule shall be available to public bodies and cooperatives (any one of whom is hereinafter called the Customer) in Georgia, Alabama, Mississippi, or Florida, owning distribution systems, to whom power may be wheeled pursuant to contracts between the Government and the Georgia Power Company, or Alabama Power Company, or Mississippi Power Company, or Gulf Power Company, or Municipal Electric Authority of Georgia, or Water, Light and Sinking Fund Commission of the City of Dalton, or Oglethorpe Power Corporation, or Alabama Electric Cooperative (any one of whom is hereinafter called the Facilitator or Facilitators).

Applicability: This rate schedule shall be applicable to the sale of wholesale energy generated from pumping operations at the

Carters Project and sold under appropriate contracts between the Government and the Customer.

Character of Service: The electric energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer on the Facilitator's transmission and distribution system.

Monthly Rate: The rate for energy sold under this rate schedule for the months specified shall be:

Energy Rate = $(C_{wav} + F) \div (1 - L_d)$ [computed to the nearest \$.00001 (1/100 mill) per kwh]

[The weighted average cost of energy for pumping divided by the energy conversion factor, quantity divided by one minus losses for delivery.]

Where:

$C_{wav} = C_T + E_T$

[The weighted average cost of energy for pumping is equal to the total cost of energy for pumping divided by the total energy for pumping.]

$C_T = C_p + C_s$

[Total cost of energy for pumping is equal to the cost of energy purchased plus the cost of energy in storage carried over from the month preceding the specified month.]

$E_T = E_p X (1 - L_p) + E_s^{t-1}$

[Total energy for pumping is equal to the energy purchased, after losses, plus the energy for pumping in storage as of the end of the month preceding the specified month.]

$C_s = C_{wav}^{t-1} X (E_s^{t-1})$

[Cost of energy in storage is equal to the weighted average cost of energy for pumping for the month preceding the specified month times the energy for pumping in storage at the

end of the month preceding the specified month.)

F = Energy conversion factor for pumping at the Carters Project (by contract, .70 or 70 percent.)

L_w = Weighted average energy loss factor on energy delivered by the facilitator to the customer. (This value will be a constant, currently estimated to be .0515 or 5.15 percent.)

C_p = Dollars cost of energy purchased for pumping during the specified month, including all direct costs to deliver energy to the project. (Wheeling charges are expected to be \$.027 per mwh.)

E_p = Kilowatt-hours of energy purchased for pumping during the specified month.

L_t = Energy loss factor for transmission on energy purchased for pumping (Expected to be .03 or three percent.)

E_s = Kilowatt-hours of energy in storage as of the end of the month immediately preceding the specified month.

C_{wv} = Weighted average cost of energy for pumping for the month immediately preceding the specified month.

Energy to be furnished by the Government: The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to the Facilitator (less any losses required by the Facilitator). The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Facilitator's system.

Billing Month: The billing month for power sold under this schedule shall end at 12 midnight on the last day of each calendar month.

Conditions of Service: The Customer shall at its own expense provide, install, and maintain the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment shall be coordinated with that which is installed by and at the expense of the Facilitator on its side of the delivery point.

Dated: June 1, 1991.

[FR Doc. 91-13238 Filed 6-4-91; 8:45 am]

BILLING CODE 5450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-34013; FRL 3693-4]

Availability of Pesticide Reregistration Eligibility Document for Sulfur

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability for public comment.

SUMMARY: This Notice announces the availability of the final Reregistration Eligibility Document (RED) for Sulfur and the establishment of a public comment period. The RED is the Agency's formal regulatory assessment

of the health and environmental data base for sulfur and presents the Agency's determination regarding which uses of sulfur are eligible for reregistration.

DATES: Written comments on the Sulfur RED must be submitted by August 5, 1991.

ADDRESSES: Three copies of comments identified with the docket number "OPP-34013" should be submitted to: By mail: Public Information Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 246, CM # 2, 1921 Jefferson Davis Highway, Arlington, VA. To request a copy of the RED or a RED Fact Sheet for sulfur, contact the Public Information Branch, in room 246 at the address given above (703-557-2805). Requests should be submitted in time to allow sufficient time for receipt before the close of the comment period.

Information submitted as a comment in response to this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket and docket index will be available for public inspection in room 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Eric Feris for Technical questions concerning the RED. (Call through the Federal Information Relay Service at 1-800-877-8339. When the operator answers, ask to call Mr. Feris at (703) 308-8048.)

SUPPLEMENTARY INFORMATION: EPA has issued a final Reregistration Eligibility Document for Sulfur. Under the provisions of the Federal Insecticide, Fungicide and Rodenticide Act, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate most existing pesticides to make sure they meet current scientific and regulatory standards. Sulfur has a complete data base and the Agency has determined that the registered uses do not cause unreasonable adverse effects to people or the environment. All registered uses of sulfur are eligible for reregistration. All registrants of sulfur

have been sent the RED and must respond to the labeling requirements within 8 months of receipt. The 60 day public comment period does not affect the registrant's response due date.

EPA's rationale for issuing the Sulfur RED as a final document with a 60 day comment period is based on the Agency's experience with Registration Standards and comments received from the public at a reregistration workshop sponsored by the Agency in September 1990. Most of the participants at the September 1990 workshop, which included several hundred registrants, State and Federal agency representatives and public interest groups, expressed a desire to have an opportunity to comment on a draft RED prior to the Agency issuing the final document. Most comments were from affected registrants and involved clarification of data requirements and/or questions about the appropriateness of certain data and or labeling changes; public comments on the Registration Standards were limited. The Agency believes registrants will have ample opportunity to raise additional issues prior to the due date of their responses or in their responses. Although the Agency is issuing the Sulfur final RED it believes that the establishment of a 60 day comment period will provide sufficient opportunity for public input and allow a mechanism for any subsequent amendments to the RED. The Agency believes this approach is necessary to reduce the time required to complete the regulatory assessment and issue RED's for all affected pesticides and meet the congressionally mandated time frames for completion of the reregistration program.

Dated: May 10, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91-13235 Filed 6-4-91; 8:45 am]

BILLING CODE 6550-50-F

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee on Advanced Television Service Planning Subcommittee Meeting

A meeting of the Planning Subcommittee of the Advisory Committee on Advanced Television Service will be held on: July 9, 1991, 10 a.m., Commission Meeting Room (Room 856), 1919 M Street, NW., Washington, DC.

The purpose of this meeting is to receive the reports of the

Subcommittee's working parties and to review the work statement for the fifth period of Planning Subcommittee activities.

The agenda for the meeting is as follows:

1. Call to Order by the Chairman.
2. Adoption of the Minutes of the Seventh Meeting.
3. Introductory Remarks.
4. Status Reports by the Working Party and Advisory Group Chairs.
5. Review of work for fifth period.
6. Other Business.
7. Date and Location of the Next Subcommittee Meeting.
8. Adjournment.

This meeting is open to the public. Parties may submit written statements prior to or at the time of the meeting. Oral statements and discussion will be permitted under the direction of the Subcommittee Chairman.

Any questions regarding this meeting should be directed to Joseph A. Flaherty at (212) 975-2213 or William Hassinger at (202) 632-6460.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 91-13251 Filed 6-4-91; 8:45 am]

BILLING CODE 6712-01-M

The Commission's New FM Translator Rules Will Become Effective and the Freeze Will be Lifted on June 1, 1991

May 31, 1991.

By Order in MM Docket No. 88-140 ("Order"), DA 91-527 released May 3, 1991, the Commission suspended the effective date of the FM translator rules adopted in the Report and Order in MM Docket No. 88-140 ("Report"), 5 FCC Rcd 7212 (1990) and the date for lifting the freeze on the acceptability for filing of FM translator applications proposing operation on the commercial band (Channels 221-300) until June 1, 1991. Although the Report established March 1, 1991, as the effective date for the rule revisions, and May 1, 1991, as the date for termination of the freeze, both dates were suspended by the Order until June 1, 1991, pending approval by the Office of Management and Budget ("OMB") of the new and modified requirements resulting from the Report.

The new and modified requirements resulting from the Report received OMB approval on May 29, 1991. Therefore, the suspension of the effective date of the new requirements and the date for lifting the FM translator application freeze will terminate on June 1, 1991. Applications filed thereafter must be filed in conformance with our new FM translator rules.

Until the updated application from (FCC Form 349—Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station) is available, applicants can continue to use the current version of the form supplemented by exhibits containing the additional information as required by the new FM translator rules. Because June 1, 1991, is a Saturday, the first filing date for applications will be June 3, 1991. Additionally, applications that are pending as of June 1, 1991, must be amended to conform to the new rules within 60 days after the freeze is lifted, i.e., August 1, 1991.

For additional information you may contact Ricardo M. Durham of the Auxiliary Services Branch at (202) 634-6307.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 91-13252 Filed 6-4-91; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Royal Cruise Line Limited, One Maritime Plaza, suite 1400, San Francisco, CA 94111.

Vessel: Royal Odyssey

Dated May 30, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91-13190 Filed 6-4-91; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages

pursuant to the provisions of section 2, Public Law 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Royal Cruise Line Limited, One Maritime Plaza, suite 1400, San Francisco, CA 94111.

Vessel: Royal Odyssey

Dated: May 30, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91-13189 Filed 6-4-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Solicitation of Nominations for Membership

May 30, 1991.

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Solicitation of nominations for membership on the Board's Consumer Advisory Council.

SUMMARY: The Board is asking the public to nominate qualified individuals for appointment to its Consumer Advisory Council, which is comprised of representatives both of consumer and community interests and of the financial services industry. Thirteen new members will be selected for three-year terms that will begin in January 1992. The Board expects to announce the selection of new members by year-end 1991.

DATES: Nominations should be received by August 30, 1991.

ADDRESSES: Nominations should be submitted in writing to Dolores S. Smith, Assistant Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551. Information about nominees will be available for inspection upon request.

FOR FURTHER INFORMATION CONTACT: Bedelia Calhoun, Staff Specialist, Division of Consumer and Community Affairs, (202) 452-2412; or for Telecommunications Device for the Deaf (TDD) users only, Dorothea Thompson (202) 452-3544; Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Consumer Advisory Council was established in 1976 at the direction of Congress to advise the Federal Reserve Board on the exercise of its duties under the Consumer Credit Protection Act and on other consumer-related matters. The

Council by law represents the interests both of consumers and of the financial community. Members serve three-year terms that are staggered to provide the Council with continuity.

New members will be selected this year for terms beginning January 1, 1991, to replace members whose terms expire this year. Nominations should include the address and telephone number of the nominee, information about past and present positions held, and a description of special knowledge, interests or experience related to consumer credit or other consumer financial services. Persons may nominate themselves as well as other candidates.

The Board is interested in candidates who are willing to express their viewpoints and who have some familiarity with consumer financial services. Candidates do not have to be experts on all levels of consumer financial services, but they should possess some basic knowledge of the area. In addition, they should be able to make the necessary time commitment to prepare for and attend meetings (usually two days long including committee meetings) three times a year.

In making the appointments, the Board will seek to complement the qualifications of continuing council members in terms of affiliation and geographic representation, and to ensure the representation of women and minority groups. The Board expects to announce its selection of new members by year-end.

The Council's meetings are held in Washington, DC. Council members (and the expiration date of each term of office) are listed below:

Members Whose Terms Expire in 1991

James W. Head, Executive Director, National Economic Development and Law Center, Berkeley, California.
Linda K. Page, President and Chief Operating Officer, Star Bank, Columbus, Ohio.
George H. Braasch, Corporate General Counsel, Spiegel Incorporated, Oakbrook, Illinois.
Cliff E. Cook, Vice President and Compliance Officer, Puget Sound National Bank, Tacoma, Washington.
R.B. Dean, Jr., Administrator of Community and Consumer Affairs, South Carolina National Bank, Columbia, South Carolina.
William C. Dunkelberg, Dean of the School of Business and Management, Temple University, Philadelphia, Pennsylvania.
James Fletcher, President and Director, South Shore Bank of Chicago, Chicago, Illinois.
Barbara Kaufman, Co-Director, KCBS Call for Action, San Francisco, California.
Michelle S. Meier, Counsel for Government Affairs, Consumers Union, Washington, DC.
Vincent P. Quayle, Director, St. Ambrose Housing Aid Center, Baltimore, Maryland.

Clifford N. Rosenthal, Executive Director, National Federation of Community Development Credit Unions, New York, New York.

Alan M. Silberstein, Executive Vice President, Chemical Bank, New York, New York.

David B. Ward, Counsel, Gebhardt and Kiefer, Clinton, New Jersey.

Members Whose Terms Continue Through 1992 and 1993

Veronica E. Barela, Executive Director, NEWSED Community Development Corporation, Denver, Colorado, December 1993.

Dr. Toye L. Brown, Director, Freedom House Inc., Boston, Massachusetts, December, 1993.

Denny D. Dumler, Senior Vice President, Consumer Banking for Colorado National Bank of Denver, Denver, Colorado, December 1993.

George C. Galster, Professor of Economics, College of Wooster, Wooster, Ohio, December 1992.

E. Thomas Garman, Professor of Consumer Studies at the College of Human Resources, Virginia Polytechnic Institute and State University, Blacksburg, Virginia, December 1992.

Donald A. Glas, President, First State Federal Savings and Loan Association, Hutchinson, Minnesota, December 1993.

Deborah B. Goldberg, Reinvestment Specialist on the Neighborhood Revitalization Project, Center for Community Change, Washington, DC, December 1992.

Michael M. Greenfield, Professor of Law, Washington University, St. Louis, Missouri, December 1992.

Joyce Harris, President and Chief Executive Officer, Telco Community Credit Union, Madison, Wisconsin, December 1993.

Julia Hiler, Executive Vice President, Sunshine Mortgage Corporation, Marietta, Georgia, December 1993.

Henry Jaramillo, President, Ranchers State Bank of Belen, Belen, New Mexico, December 1993.

Kathleen E. Keest, Staff Attorney, National Consumer Law Center, Boston, Massachusetts, December 1992.

Colleen D. McCarthy, Executive Director, Kansas City Neighborhood Alliance, Kansas City, Missouri, December 1992.

Bernard F. Parker, Jr., Executive Director, Community Resource Projects, Detroit Michigan, December 1992.

Otis Pitts, Jr., President, Tacolcy Economic Development Corporation, Miami, Florida, December 1993.

Nancy Harvey Steorts, President, Nancy Harvey Steorts and Associates, Dallas, Texas, December 1992.

Sandra Willett, Second Vice President—Consumer Affairs, John Hancock Financial Services, Boston, Massachusetts, December 1993.

Board of Governors of the Federal Reserve System, May 30, 1991.

William W. Wiles,
Secretary of the Board.

[FR Doc. 91-13193 Filed 6-4-91; 8:45 am]

BILLING CODE 3210-01-M

BanPonce Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 24, 1991.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. BanPonce Corporation, Hato Rey, Puerto Rico; to acquire Spring Financial Services, Inc., Mt. Laurel, New Jersey, and its subsidiaries, Spring Financial

Mortgage Company, Mt. Laurel, New Jersey; Equity One, Incorporated, Langhorne, Pennsylvania; Equity One Consumer Discount Company, Langhorne, Pennsylvania; and Spring Mortgage Servicing Company, Mt. Laurel, New Jersey; and thereby engage in making and servicing loans pursuant to § 225.25(b)(1), and insurance agency and underwriting activities pursuant to § 225.25(b)(8)(i) and (ii) of the Board's Regulation Y. These activities will be conducted in the United States, Puerto Rico and U.S. Virgin Islands.

Board of Governors of the Federal Reserve System, May 30, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-13200 Filed 6-4-91; 8:45 am]

BILLING CODE 6210-01-F

RCN Holding Company; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound

banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 24, 1991.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. **RCN Holding Company**, Sisseton, South Dakota; to become a bank holding company by acquiring 94.8 percent of the voting shares of Roberts County National Bank, Sisseton, South Dakota.

In connection with this application, Applicant also proposes to acquire Powell-Kouba-Torness Insurance Agency Partnership, Sisseton, South Dakota, and thereby engage in general insurance agency business in Sisseton, South Dakota, a town with a population of less than 5,000 persons pursuant to § 225.25(b)(8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 30, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-13201 Filed 6-4-91; 8:45 am]

BILLING CODE 6210-01-F

RMB Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must

include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than June 24, 1991.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. **RMB Bancshares, Inc.**, Marceline, Missouri; to become a bank holding company by acquiring at least 90 percent of the voting shares of Regional Missouri Bank, Marceline, Missouri.

Board of Governors of the Federal Reserve System, June 24, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-13202 Filed 6-4-91; 8:45 am]

BILLING CODE 6210-01-F

John Bradford Stacks, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 24, 1991.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. **John Bradford Stacks**, Damascus, Arkansas; to acquire 11.16 percent of the voting shares of Clin-Ark Bancshares, Inc., Clinton, Arkansas, and thereby indirectly acquire First National Bank, Clinton, Arkansas.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. **Alan Hann**, Dickinson, North Dakota; to acquire an additional 0.75 percent of the voting shares of

Dickinson Bancorporation, Inc.,
Dickinson, North Dakota, for a total of
25.59 percent, and thereby indirectly
acquire Liberty National Bank and Trust
Company, Dickinson, North Dakota.

**C. Federal Reserve Bank of Kansas
City** (Thomas M. Hoenig, Vice President)
925 Grand Avenue, Kansas City,
Missouri 64198:

1. *Ray Kandt*, Prairie Village, Kansas;
to acquire 3.9 percent, and State Line
Eye Consultants Profit Sharing Trust,
Kansas City, Missouri, to acquire 8.6
percent of the voting shares of State
Bank and Trust, Colorado Springs,
Colorado.

**D. Federal Reserve Bank of Dallas (W.
Arthur Tribble, Vice President)** 400
South Akard Street, Dallas, Texas 75222:

1. *James R. Lightner*, Dallas, Texas; to
acquire an additional 4.37 percent of the
voting shares for a total of 13.67 percent;
and Robert L. Carrel, Dallas, Texas, to
acquire an additional 4.37 percent for a
total of 13.20 percent of the voting
shares of Equitable Bankshares, Inc.,
Dallas, Texas, and thereby indirectly
acquire Equitable Bank, N.A., Arlington,
Texas, and Equitable Bank, Dallas,
Texas.

Board of Governors of the Federal Reserve
System, May 30, 1991.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 91-13203 Filed 6-4-91; 8:45 am]

BILLING CODE 6210-01-F

Terrapin Bancorp, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

CORRECTION

This notice corrects a previous
Federal Register notice (FR Doc. 91-
12597) published at page 24194 of the
issue for Wednesday, May 29, 1991.

Under the Federal Reserve Bank of
Chicago, the entry for Terrapin Bancorp,
Inc. is amended to read as follows:

A. Federal Reserve Bank of Chicago
(David S. Epstein, Vice President) 230
South LaSalle Street, Chicago, Illinois
60690:

1. *Terrapin Bancorp, Inc.*, Elizabeth,
Illinois; to acquire a portfolio of general
property insurance business from
Marvin Wurster and thereby engage in
conducting general insurance activities
in Elizabeth, Illinois, a town with a
population of less than 5,000 people,
pursuant to § 225.25(b)(8) of the Board's
Regulation Y.

Comments on this application must be
received by June 24, 1991.

Board of Governors of the Federal Reserve
System, May 30, 1991.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 91-13204 Filed 6-4-91; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Employee Thrift Advisory Council; Open Meeting

In accordance with section 10(a)(2) of
the Federal Advisory Committee Act
(Pub. L. 92-463), a notice is hereby given
of the following committee meeting:

Name: Employee Thrift Advisory Council.
Time and date: 10 a.m., June 19, 1991.
Place: 5th Floor, Conference Room, Federal
Retirement Thrift Investment Board, 805
Fifteenth Street, NW., Washington, DC.
Status: Open.

Matters to be considered: Approval of the
minutes of the February 26, 1991, meeting;
report of the Executive Director on the status
of the Thrift Savings Plan; employee survey
highlights; status of Desert Storm legislation;
frequency of Council meetings; and new
business.

Any interested person may attend,
appear before, or file statements with
the Council. For further information
contact John J. O'Meara, Committee
Management Officer, on (202) 523-6367.

Dated: May 30, 1991.

Francis X. Cavanaugh,
Executive Director.

[FR Doc. 91-13249 Filed 6-4-91; 8:45 am]

BILLING CODE 6710-01-M

GENERAL SERVICES ADMINISTRATION

Multiple Award Federal Supply Schedule

Notice is hereby given that the Office
Supplies and Paper Products Commodity
Center, Federal Supply Service, is
developing technical requirements for
various items currently on Multiple
Award Federal Supply Schedule for
conversion to competitive award. The
items include: Diskettes, erasable ball
point pens, ribbons, liftoff tapes, note
trays, tape flags (repositionable), writing
paper pads (repositionable), suspended
file folders and colored file folders.
Some sizes, colors, types, styles, etc.
within an item category may be
removed from the Multiple Award
Schedule for competitive award while
other sizes, colors, types, styles, etc.
may continue being supplied from the
Schedule. Upon their availability, the
technical requirements will be made

available to all interested parties for
comment. Request for the technical
requirements should be submitted to Mr.
John Marrone, Engineering and
Commodity Management Division, room
20-130, 26 Federal Plaza, New York, NY
10278. Requests for the technical
requirements should be made within
thirty days from the date of this notice.

Dated: May 28, 1991.

A. Troglio,
*Acting Director, Office Supplies and Paper
Products Commodity Center (2FY).*

[FR Doc. 91-13150 Filed 6-4-91; 8:45 am]

BILLING CODE 6820-24-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 1205-2]

Proposed Modifications to the Harmonized Tariff Schedule of the United States, Pursuant to Section 1205 of the Omnibus Trade and Competitiveness Act of 1988

AGENCY: United States International
Trade Commission.

ACTION: Institution of investigation and
scheduling of hearing.

EFFECTIVE DATE: May 28, 1991.

FOR FURTHER INFORMATION, CONTACT:
Eugene A. Rosengarden, Director, Office
of Tariff Affairs and Trade Agreements
(telephone 202-252-1592), or Dave Beck,
Supervisory Nomenclature Analyst
(202-252-1604), U.S. International Trade
Commission, Washington, DC 20438.

*Background and Scope of
Investigation:* On May 24, 1991, the
Commission instituted investigation No.
1205-2, Proposed Modifications to the
Harmonized Tariff Schedule of the
United States, Pursuant to section 1205
of the Omnibus Trade and
Competitiveness Act of 1988. Section
1205 directs the Commission to keep the
Harmonized Tariff Schedule of the
United States (HTS) under continuous
review and to recommend modifications
to the HTS (1) when amendments to the
International Convention on the
Harmonized Commodity Description
and Coding System (Harmonized
System) and the Protocol thereto, are
recommended by the Customs
Cooperation Council (CCC) for adoption,
and (2) as other circumstances warrant.
This investigation represents the
Commission's second under section
1205. The Commission forwarded
recommendations to the President on
March 26, 1991, in the form of a
memorandum, which has been

designated as USITC investigation No. 1205-1.

Investigation No. 1205-2 will address two questions affecting the HTS. The first question arises from the determination by the CCC's Harmonized System Committee (6th Session) that frozen concentrated orange juice with added calcium is classifiable not as orange juice of HS heading 2009, but as a food preparation of HS heading 2106.

In a letter dated April 4, 1991, the Commissioner of Customs requested that the Commission recommend to the President appropriate modifications to the HTS to permit the Customs Service to follow the Harmonized System Committee's decision on orange juice. A copy of the Customs Commissioner's letter is attached.

The second question arises from the determination by the CCC's Harmonized

System Committee (5th Session) that extracted oleoresins (also known as prepared oleoresins) are properly classifiable in HS subheading 3301.90, not in HS subheading 3301.30. In this case, it is proposed that subheadings 3301.30.10, 3301.30.50, and 3301.90.00 of the HTS be deleted, and the following be substituted in lieu thereof:

"3301.30.00	Resinoids.....	Free		Free
3301.90	Other:			
3301.90.10	Extracted oleoresins.....	6%	Free (A, CA, E, IL)	25%
3301.90.90	Other.....	Free		20%"

Public Hearing: A public hearing in connection with its investigation will be held in the Main Hearing Room (room 101) of the U.S. International Trade Commission, 500 E Street SW., Washington, DC., on July 15, 1991, at 9:30 a.m. All persons shall have the right to appear by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, not later than noon, July 8, 1991. Written prehearing comments (original and 14 copies) should be filed not later than noon, July 8, 1991. Post-hearing comments may be submitted by no later than July 22, 1991.

Written Submissions: Interested parties (including other Federal agencies) are invited to submit written statements concerning the subject of the report. Such statements must be submitted by no later than July 22, 1991, in order to be considered by the Commission. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on 202-252-1809.

Issued: May 24, 1991.

By order of the Commission.

Kenneth R. Mason,
Secretary.

Dear Chairman Brundsdale:

As you know, pursuant to Section 1205 of the Omnibus Trade and Competitiveness Act of 1988, the International Trade Commission is charged with keeping the Harmonized Tariff Schedule of the United States (HTSUS)

under continuous review and, as circumstances warrant, to promote the uniform application of the Harmonized System Convention and particularly the annex thereto. The purpose of this letter is to bring to your attention a matter which we believe warrants the exercise of this authority.

At its fourth session in October 1989, the Harmonized System Committee of the Customs Cooperation Council (CCC) examined the classification of certain orange juice which was fortified with calcium. After discussion, the Committee voted to classify the product as a food preparation not elsewhere specified or included in heading 21.06 rather than as orange juice of heading 20.09. The United States entered a reservation to this decision, pursuant to Article 8 of the Harmonized System Convention, setting forth its view that the addition of calcium to the product did not change the classification of the product under the Harmonized System, citing the General Rules of Interpretation to the system and the heading text.

In accordance with Article 8 of the Convention, the Customs Cooperation Council referred the question back to the Harmonized System Committee for reexamination at its sixth session in November 1990. The United States presented at considerable length the basis for its view that the addition of calcium did not alter the classification of the product. After discussion, however, the Committee affirmed its previous decision that the product was not classified as orange juice.

The United States Customs Service continues to be of the opinion that the product that was the subject of these decisions is properly classifiable as orange juice under the Harmonized System and under the Harmonized Tariff Schedule of the United States. However, in the interest of uniformity of application of the Harmonized System Convention, the Customs Service would like to be able to classify the product under the U.S. tariff in accordance with the HSC decision. Accordingly, we request that the Commission recommend to the President such modifications as are necessary or appropriate to promote the uniform

application of the Harmonized System Convention by conforming the HTSUS to the CCC decision.

Your attention to this matter is appreciated.

Sincerely,

Carol Hallett,

Commissioner.

The Honorable Anne E. Brundsdale, Acting
Chairman, United States International
Trade Commission, Washington, DC
20436.

[FR Doc. 91-13221 Filed 6-4-91; 8:45 am]

BILLING CODE 7020-02-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-324]

Certain Acid-Washed Denim Garments and Accessories; Decision To Review and Affirm an Initial Determination Amending the Complaint To Add Ten Firms as Respondents

AGENCY: U.S. International Trade
Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commission has determined to review and affirm the presiding administrative law judge's (ALJ's) initial determination (ID) (Order No. 6) granting a motion by complainants Greater Texas Finishing Corporation and Golden Trade S.r.l. to amend the complaint in the above-captioned investigation to add ten firms as respondents. The Commission also ordered that the notice of investigation be amended to include the ten firms as additional respondents.

FOR FURTHER INFORMATION CONTACT:
William T. Kane, Esq., Office of the
General Counsel, U.S. International
Trade Commission, 500 E Street SW.,
Washington, DC 20436; telephone: (202)-

252-1116. Copies of the ID, the Commission's Order, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436; telephone: (202)-252-1000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202)-252-1810.

SUPPLEMENTARY INFORMATION: The Commission voted to institute this investigation on January 28, 1991. The notice of investigation was published in the Federal Register on February 6, 1991 (56 FR 4851). The complaint alleges a violation of section 337 in the importation, sale for importation, or sale after importation of certain acid-washed denim garments and accessories by reason of infringement of claims 6 and 14 of U.S. Letters Patent 4,740,213.

On April 4, 1991, complainant moved pursuant to Commission interim rule 210.22(a) to amend the complaint to add ten firms as respondents (Motion Docket No. 324-7). The Commission investigative attorney filed a submission in support of the motion. On April 26, 1991, the ALJ issued an ID granting the motion. No petitions for review or agency comments were received.

In a separate Order, the Commission amended its notice of investigation to include the ten firms as additional respondents. These ten firms are: (1) Hsieh Hsing Washing and Dyeing Company, Ltd., (2) Chu Hsing Garments Manufacturing Company, Ltd., (3) Jeng Hui Garment Company, Ltd., (4) Chi Sheng Wash and Dye Factory, (5) Tai Develop Textile Company, Ltd., (6) Bun Tai Enterprise Company, Ltd., (7) Yeh Hua Garments Manufacturing Company, Ltd., (8) Sociedad Exportadora Ltda., (9) Adamson Sales Corp., and (10) Arcadia Enterprises, Inc.

This action is taken pursuant to section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and Commission interim rules 210.55 and 210.56 (19 CFR 210.55 and 210.56, as amended).

Issued: May 29, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-13223 Filed 6-4-91; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-328]

Certain Bathtubs and Other Bathing Vessels and Materials Used Therein; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 1, 1991, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of American Standard Inc., 1114 Avenue of the Americas, New York, New York 10036-7701. The complaint was supplemented on May 22, 1991. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain bathtubs and other bathing vessels by reason of alleged infringement of U.S. Registered Trademark No. 1,519,822, and that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue permanent general exclusion orders and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., room 112, Washington, DC 20436, telephone 202-252-1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

FOR FURTHER INFORMATION CONTACT:

Sarah C. Middleton, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-252-1576.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.12 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.12.

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on May 29, 1991, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted

to determine whether there is a violation of subsection (a)(1)(C) in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain bathtubs and other bathing vessels and materials used therein, by reason of infringement of U.S. Registered Trademark No. 1,519,822; and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this Notice of Investigation shall be served:

(a) The complainant is: American Standard Inc., 1114 Avenue of the Americas, New York, New York 10036-7701.

(b) The respondents are the following companies alleged to be in violation of section 337, and the parties upon which the complaint is to be served: EBI Ltd., 1751 Robin Hood Road, Vista, California 92084.

Franz Kaldewei GmbH & Co., Postfach 469, 4730 Ahlen, Germany.
SWC Industries, Inc., 1505 Industrial Drive, P.O. Box 210, Henderson, TX 75653-0210.

(c) Sarah C. Middleton, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., room 401M, Washington, DC 20436, shall be the Commission investigative attorney; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses to the complaint and the Notice of Investigation must be submitted by the named respondents in accordance with § 210.21 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.21. Pursuant to §§ 210.16(d) and 210.21(a) of the Commission's Rules, 19 CFR 210.16(d) and 210.21(a), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint and this Notice of Investigation. Extensions of time for submitting responses to the complaint and Notice of Investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this Notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this

Notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this Notice, and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order, or a cease and desist order, or both, directed against such respondent.

Issued: May 30, 1991.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 91-13224 Filed 6-4-91; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-327]

Certain Food Trays With Lockable Lids; Change of Commission Investigative Attorney

Notice is hereby given that, as of this date, Juan S. Cockburn, Esq., of the Office of Unfair Import Investigations is designated as the Commission investigative attorney in the above-cited investigation instead of James M. Gould, Esq.

The Secretary is requested to publish this Notice in the *Federal Register*.

Dated: May 30, 1991.

Respectfully submitted,

Lynn I. Levine,
Director, Office of Unfair Import
Investigations, 500 E Street SW., Washington,
DC 20436.

[FR Doc. 91-13225 Filed 6-4-91; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-458 and 459 (Final)]

Polyethylene Terephthalate Film, Sheet, and Strip From Japan and the Republic of Korea

Determinations

On the basis of the record¹ developed in the subject investigations, the Commission determines,² pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act), that an industry in the United States is materially injured by reason of imports from Japan and the Republic of Korea of polyethylene terephthalate film, sheet, and strip,³ provided for in subheading

3920.62.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective November 28, 1990, following preliminary determinations by the Department of Commerce that imports of polyethylene terephthalate film, sheet, and strip (PET film) from Japan and the Republic of Korea were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of December 19, 1990 (55 FR 52105). Subsequently, the Department of Commerce extended the date for its final determinations in the investigations and the Commission revised its schedule to conform with Commerce's new schedule (56 FR 872, January 9, 1991). The hearing was held in Washington, DC, on April 18, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on May 29, 1991. The views of the Commission are contained in USITC Publication 2383 (May 1991), entitled "Polyethylene Terephthalate Film, Sheet, and Strip from Japan and the Republic of Korea: Determinations of the Commission in Investigations Nos. 458 and 459 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

Issued: May 30, 1991.

By Order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 91-13226 Filed 6-4-91; 8:45 am]

BILLING CODE 7020-02-M

film, sheet, and strip, whether extruded or coextruded. The films excluded from the scope of these investigations are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches (0.254 micrometers) thick.

[Investigation No. 731-TA-52 (Final)]

Sheet Piling From Canada

Determination

On the basis of the record¹ developed in the subject investigation, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Canada of sheet piling, provided for in subheading 7301.10.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted the continuation of final investigation 731-TA-52 effective November 29, 1990, following the cancellation of the suspension agreement concerning sheet piling from Canada by the Department of Commerce because sales at less than fair value were found during the period of administrative review. As a consequence, Commerce resumed its antidumping investigation as if its affirmative preliminary determination was made on the date of the publication of its notice to resume the investigation. Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of December 19, 1991 (55 FR 52106). The hearing was held in Washington, DC, on April 17, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on May 29, 1991. The views of the Commission are contained in USITC Publication 2384 (May 1991), entitled "Sheet Piling from Canada: Determination of the Commission in Investigation No. 731-TA-52 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: May 29, 1991.

¹ The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

¹ The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

² Acting Chairman Brundsdale dissenting.

³ The product subject to investigation by the Department of Commerce is all gauges of raw, pretreated, or primed polyethylene terephthalate

By order of the Commission.
Kenneth R. Mason,
Secretary.
[FR Doc. 91-13227 Filed 6-4-91; 8:45 am]
BILLING CODE 7020-02-M

[332-311]

Services: U.S. and Mexico Sector Profiles and Mexican Impediments to Trade

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation.

EFFECTIVE DATE: May 24, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Kollins (202-252-1441), Office of Industries, U.S. International Trade Commission, Washington, DC 20436.

Background and Scope of Investigation: The Commission instituted investigation No. 332-311, following receipt on May 17, 1991 of a letter from the United States Trade Representative (USTR), requesting, under authority delegated by the President, that the Commission conduct an investigation pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide information for use by USTR in preparing for negotiations on trade in services in connection with negotiations with Mexico and Canada on a North American Free Trade Agreement.

As requested by the USTR, the Commission will provide a report as follows with respect to each of the service sectors listed below—(1) A brief U.S. industry profile, (2) a comprehensive Mexican industry profile, (3) an identification of Mexican nontariff measures which impede U.S. participation in the Mexican market, and (4) an assessment of the impact of such measures on U.S. service providers. The service sectors identified by the USTR include accounting; advertising; agricultural; architecture, construction, and engineering; entertainment; health and medical; insurance; land transportation; legal; oilfield; telecommunication and information; tourism; and others, if any, that are significant and are unique to border trade.

In addition, with respect to U.S.-Canada trade in services, the USTR has requested, and the Commission will seek to provide in its report, any significant new information that has come to the Commission's attention since completion of the Commission's investigation on Canadian service sectors in investigation No. 332-235.

As requested by USTR, the Commission intends to submit a report to the USTR no later than August 2, 1991 on the sectors specified above with the exception of agricultural and oilfield services. A supplemental report on these two sectors, as well as any additional significant service sectors unique to U.S.-Mexico border trade, will be provided to the USTR not later than October 15, 1991.

Written Submissions: No public hearing has been scheduled in this matter. However, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitting party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rule of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons. To be assured of consideration by the Commission, written statements should be submitted at the earliest possible date for all sectors, with the exception of agricultural services and oilfield services, and should be received by no later than July 2, 1991 to be included in the first report. Written statements on agricultural and oilfield services sectors, as well as any additional information on other sectors that could not be provided by the July 2 deadline, will be accepted through September 17, 1991. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal at (202) 252-1810.

Issued: May 28, 1991.

By order of the Commission.
Kenneth R. Mason,
Secretary.
[FR Doc. 91-13222 Filed 6-4-91; 8:45 am]
BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-352X]

Brandywine Valley Railroad Co.—Abandonment Exemption—in Palm Beach County, FL; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 subpart

F—Exempt Abandonments to abandon its 1.5-mile line of railroad between mileposts 970.5 and 972.0 at Cane, Palm County, FL.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on July 5, 1991 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),² and trail use/rail banking statements under 49 CFR 1152.29 must be filed by June 17, 1991.³ Petitions for reconsideration or requests for public use conditions under 49 CFR 1152.28 must be filed by June 25, 1991, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Steven R. Lacey, 50 South First Avenue, Coatesville, PA 19320.

¹ A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

² See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 184 (1987).

³ The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (see) will prepare an environmental assessment (EA). SEE will issue the EA by May 31, 1991. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275-7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: May 29, 1991.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.
Sidney L. Strickland, Jr.,
Secretary.

[FR Doc. 91-13131 Filed 6-4-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31623]

Rutherford Railroad Development Corporation—Exemption—49 U.S.C. Subtitle IV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505, the Commission exempts Rutherford Railroad Development Corporation from all obligations under subtitle IV (including the need to seek Commission authority for any future abandonment) arising from its purchase from CSX Transportation, Inc., of 3.56 miles of rail line between Forest City and Bostic in Rutherford County, NC. This exemption is subject to a condition requiring consultation with the U.S. Army Corps of Engineers prior to possible future salvage activity and subject to the Commission's retention of jurisdiction to impose labor protective conditions.

DATES: This exemption will be effective on July 10, 1991. Petitions for stay must be filed by June 20, 1991, and petitions for reconsideration must be filed by July 1, 1991.

ADDRESSES: Send pleadings referring to Finance Docket No. 31623 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's Representatives:

John D. Heffner, Gerst, Heffner, Carpenter & Podgorsky, Suite 1107, 1700 K Street NW., Washington, DC 20006.

James M. Bowen, Hamrick, Bowen, Nanney & Dalton, 301 West Court Street, Post Office Drawer 790, Rutherfordton, NC 28139.

FOR FURTHER INFORMATION CONTACT:

Joseph H. Dettmar (202) 275-7245 [TDD for hearing impaired: (202) 275-1721].

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone (202) 289-4537/4539. [Assistance for the hearing impaired is available through TDD services (202) 275-1721].

Decided: May 29, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips, and McDonald.
Sidney L. Strickland, Jr.,
Secretary.

[FR Doc. 91-13218 Filed 6-4-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31870]

Texas and Oklahoma R.R. Co.—Acquisition and Operation Exemption—the Atchison, Topeka and Santa Fe Railway Company; Exemption

Texas and Oklahoma R.R. Co. (T&O), a noncarrier, has filed a notice of exemption to acquire and operate approximately 351 miles of rail line owned by The Atchison, Topeka and Santa Fe Railway Company (ATSF). T&O will become a class III rail carrier.

The track to be purchased, known as the North Orient Line, consists of two segments: (1) Between Altus Subdivision milepost 301+1,013.9 feet, near Cherokee, OK, and Sayard Subdivision milepost 636+3,583.6 feet, near Orient Junction, TX; and (2) between Sayard Subdivision milepost 642+2,098.3 feet, near Shauler, TX, and Sayard Subdivision milepost 658+3,148 feet, near Maryneal, TX.

T&O will also acquire from ATSF, for a term of 99 years, incidental limited overhead trackage rights over: (1) Connecting rail line between Sayard Subdivision milepost 636+3,583.6 feet, near Orient Junction, and milepost 642+2,098.3 feet, near Shauler, including ATSF's yard track at Sweetwater, TX; and (2) track and side

track connecting at Cherokee, OK, between Altus Subdivision mileposts 300+101.9 feet and 301+1,013.9 feet, including Cherokee Yard track numbers 1 and 2. Consummation¹ was to occur on May 17, 1991.²

T&O intends to operate the involved lines, providing common carrier rail service to shippers and receivers located thereon, through the 1991 grain harvest season. Because of the light traffic density on certain of the line segments, however, T&O will be evaluating the economics of these operations from their very inception. T&O will seek authority from the Commission to discontinue service on or abandon any of these lines that it finds cannot be operated profitably.

Any comments must be filed with the Commission and served on Richard H. Streeter, Barnes & Thornburg, suite 800, 1815 H Street NW., Washington, DC 20006.

T&O shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the lines that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: May 29, 1991.

¹ By petition filed May 13, 1991, the Committee of Texas Shippers and Communities (Texas Committee) requested that the Commission stay consummation of the transaction and provide for notice and comment procedures, including discovery and oral hearing. T&O replied. By decision served May 17, 1991, as corrected by decision served May 20, 1991, the Commission stayed consummation of the transaction for 30 days and permitted the Texas Committee to file additional evidence. On May 17, 1991, T&O filed a petition for reconsideration and termination of the stay, or in the alternative, for shortening of the comment period. ATSF filed a pleading in support of T&O's petition. The Texas Committee replied. By decision served May 23, 1991, the Commission lifted its order that the above-entitled transaction not be consummated and denied, in all other respects, the Texas Committee's petition for stay.

The Texas Committee's "protest"/petition for revocation of the exemption will be considered in a subsequent decision.

² The notice of exemption in this proceeding was filed May 3, 1991. Under the Commission's rules, the exemption is effective seven days after the notice is filed, or May 10, 1991. 49 CFR 1150.32(b).

By the Commission, Joseph H. Dettmar,
Acting Director, Office of Proceedings.
Sidney L. Strickland, Jr.,
Secretary.
[FR Doc. 91-13130 Filed 6-4-91; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 17, 1991, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug:	Schedule
Coca Leaves (9040)	II
Opium, Raw (9600)	II
Poppy Straw (9650)	II
Poppy Straw Concentrate (CPS) (9670)	II

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than July 5, 1991.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR

1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: May 20, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Office of
Diversion Control, Drug Enforcement
Administration.

[FR Doc. 91-13158 Filed 6-4-91; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirements is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the

recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Employment Standards
Administration.

Wage Statement.

1215-0148; WH-1501 and 501R(S).

Every pay day or every two weeks.

Individuals or households; State or local governments; farms; businesses or other for-profit; Federal agencies or employees; small businesses or organizations.

52,000 recordkeepers; 60,666 total recordkeeping burden; 1 minute per form; total annual burden 60,666.

The Immigration and Nationality Act requires employers of replenishment workers to provide a report to the worker certifying their employment with each wage payment. The Migrant and Seasonal Agricultural Worker Protection Act requires employers of agricultural workers to maintain specific weekly payroll information and provide written copies to each worker and the person furnished the worker.

Employment and Training
Administration, Service Delivery Area
Reorganization Plan Appeal.

1205-0243

State and local governments.

20 respondents; 40 hours; 2 hours per response; no forms.

The information collection will be used to determine whether JTPA recipients denial of a reorganization plan for a service delivery area is in conformance with JTPA.

Occupational Safety and Health Administration.

1218-0048.

Occupational Exposure to Noise. On Occasion.

Business or other for-profit; small business or organizations 1,328 respondents; 106 burden hours; 0798 hours per response; 0 forms.

The Occupational Exposure to Noise Standard and its information collection requirements is to provide protection for employees from the adverse health effects associated with occupational exposure to noise. The standard requires that OSHA have access to various records to ensure that employers are complying with the provisions of the noise standard (29 CFR 1910.95).

Signed at Washington, DC this 30th day of May, 1991.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 91-13219 Filed 6-4-91; 8:45 am]

BILLING CODE 4510-22-M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of May 1991.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not

contribute importantly to worker separations of the firm.

TA-W-25,465; Jantzen, Inc., Vancouver, WA

TA-W-25,252; General Electric Plastics, Mount Vernon, IL

TA-W-25,607; Revere Transducers, Inc., Wallingford, CT

TA-W-25,631; Parker Hannifin Corp., Marion, OH

TA-W-25,602; Mould Service, Inc., Malden, MA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA-W-25,640; CAC Microcircuits, Inc., Mt. Carmel, IL

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,641; Code-A-Phone Corp., Clackamas, OR

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-25,643; Customized Transportation, Inc., Kansas City, KS

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-25,590; D/X Imaging, Ironville, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,555; The Lee Co., Quindaro Plt, Kansas City, KS

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,555A; The Lee Co., Prospect Plt, Kansas City, MO

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,555B; The Lee Co., Forrest Plt, Kansas City, MO

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,622; Freeport Brick Co., Freeport, PA

U.S. imports of clay and non clay refractory brick declined absolutely in 1989 compared to 1988 and in 1990 compared to 1989.

TA-W-25,774; Evans, New York, NY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-25,756; Supreme Processors, Newark, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-25,632; Pennsylvania Shipbuilding Co., Chester, PA

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-25,638; Boise Cascade, Inc., Rumford, ME

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

Affirmative Determinations

TA-W-25,579; Otis Elevator NAO, Tucson, AZ

A certification was issued covering all workers separated on or after March 6, 1990.

TA-W-25,447; Westpac Moulding of Texas, Clifton, TX

A certification was issued covering all workers separated on or after February 1, 1990 and before April 1, 1991.

TA-W-25,600; Kal Drilling, Inc., Oklahoma City, OK

A certification was issued covering all workers separated on or after March 15, 1990.

TA-W-25,601; Lightolier, Inc., Norwich, CT

A certification was issued covering all workers separated on or after January 1, 1991 and before March 31, 1991.

TA-W-25,605; Pickham Industries, Oconto, WI

A certification was issued covering all workers separated on or after March 20, 1990, and before September 30, 1990.

TA-W-25,627; Jonbil, Inc., Danville, VA

A certification was issued covering all workers separated on or after March 20, 1990.

TA-W-25,627A; Jonbil, Inc., Chase City, VA

A certification was issued covering all workers separated on or after March 20, 1990.

TA-W-25,609; Tag-Agri Development (USA) Ltd, Plattsburgh, NY

A certification was issued covering all workers separated on or after March 9, 1990, and before April 1, 1991.

TA-W-25,646; Farah Manufacturing Co., El Paso, TX

A certification was issued covering all workers separated on or after March 25, 1990.

TA-W-25,679; New Jersey Tanning Co., Newark, NJ

A certification was issued covering all workers separated on or after March 11, 1990.

TA-W-25,603 & TA-W-25,604; Northern Paper Div., Georgia Pacific Corp., East Millinocket & Millinocket, ME

A certification was issued covering all workers separated on or after February, 1990.

TA-W-25,597; Jane Darling Dresses, Inc., Bloomfield, NJ

A certification was issued covering all workers separated on or after March 12, 1990, and before May 30, 1990.

TA-W-25,511; PPG Industry, Inc., Crystal City, MO

A certification was issued covering all workers separated on or after February 4, 1990.

TA-W-25,732; Arrow Co., Buchanan, GA

A certification was issued covering all workers separated on or after April 19, 1990.

TA-W-25,611; ABE Schrader Corp., Secaucus, NJ

A certification was issued covering all workers separated on or after March 21, 1990.

TA-W-25,612; ABE Schrader Corp., New York, NY

A certification was issued covering all workers separated on or after March 21, 1990.

TA-W-25,464; J. Landis Shoe Co., Palmyra, PA

A certification was issued covering all workers separated on or after February 13, 1990.

TA-W-25,620; Elkem Metals Co., Ashtabula, OH

A certification was issued covering all workers separated on or after February 1, 1990.

TA-W-25,570; National Industries, Inc., Plant #5, Wetumpka, AL

A certification was issued covering all workers separated on or after February 25, 1990.

TA-W-25,588; Arrow Co., Cedartown, GA

A certification was issued covering all workers separated on or after March 13, 1990.

TA-W-25,588A; Arrow Co., Albertville, GA

A certification was issued covering all workers separated on or after March 13, 1990.

I hereby certify that the aforementioned determinations were issued during the month of May, 1991. Copies of these determinations are available for inspection in room C-4318,

U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: May 29, 1991.

Ronald Putz,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 91-13220 Filed 6-4-91; 8:45 am]

BILLING CODE 4510-30-M

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

Meeting

AGENCY: The Martin Luther King, Jr. Federal Holiday Commission.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463 as amended, the Martin Luther King, Jr. Federal Holiday Commission announces a forthcoming meeting of the Commission.

DATES: June 18, 1991.

TIME: 1-3 p.m.

LOCATION: Rayburn House Office Building, Room 2203, Washington, DC.

Topics to be Addressed:

Review of Commission Activities for 1991.

Reports from Committees of the Commission.

Financial Report.

FOR FURTHER INFORMATION CONTACT: Madeline Y. Lawson, the Martin Luther King, Jr. Federal Holiday Commission, Washington, DC 20410 (202) 708-1005.

Dated: May 16, 1991.

Madeline Y. Lawson,

Deputy Executive Director.

[FR Doc. 91-13164 Filed 6-4-91; 8:45 am]

BILLING CODE 4210-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-219]

GPU Nuclear Corp. and Jersey Central Power & Light Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-16 issued to GPU Nuclear Corporation, et al. (the licensee), for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey.

Environmental Assessment

Identification of Proposed Action

The amendment would revise the Technical Specifications (TS) surveillance intervals for table 4.1.1: item 1—High Reactor Pressure; item 3—Low Reactor Water Level; item 4—Low-Low Reactor Water Level; item 5b—High Water Level in the Scram Discharge Volume Analog Scram; item 27a—Scram Discharge Volume Water Level High Analog Rod Block; and item 5a—High Water Level in the Scram Discharge Volume Digital Scram. A change correcting the bases for the control functions of the High Drywell Pressure Trip System, referenced in TS section 3.1, was also proposed.

The proposed amendment is in accordance with GPU Nuclear Corporation's application dated November 19, 1990.

The Need for the Proposed Action

The proposed changes to the Technical Specifications are needed so that surveillance intervals which are correct for analog instrument can be added and to extend the digital surveillance test interval based on switch performance data.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the Technical Specifications. The proposed revision modifies the calibration interval for High Reactor Pressure, Low Reactor Water Level, Low-Low Reactor Water Level, and High Water Level in the Scram Discharge Volume.

Based on its review, the Commission concludes that the proposed Technical Specification changes are acceptable and, the proposed changes do not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that these proposed actions would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed changes to the Technical Specifications involve several components in the plant which are located within the restricted area as defined in 10 CFR part 20. They do not affect nonradiological plant effluents and have no other environmental impacts. Therefore, the

Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Alternatives to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed actions, any alternatives with equal or greater environmental impacts need not be evaluated.

Alternative Use of Resources

The action would involve no use of resources not previously considered in the Final Environmental Statement (FES) for the Oyster Creek Nuclear Generating Station dated December 1974.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The staff has determined not to prepare an environmental impact statement for the proposed amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed actions will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated November 19, 1990, which is available for public inspection in the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, 20555 and the Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Rockville, Maryland, this 29th day of May 1991.

For the Nuclear Regulatory Commission,
John F. Stolz,
Director, Project Directorate I-4, Division of
Reactor Projects—I/II, Office of Nuclear
Reactor Regulation.

[FR Doc. 91-13228 Filed 6-4-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District Cooper Nuclear Station; Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of proposed amendments to Facility Operating License No. DPR-46, issued to Nebraska Public Power District (NPPD), for

operation of the Cooper Nuclear Station, located in Nemaha County, Nebraska.

Identification of Proposed Action

The amendment would consist of changing the license to extend the expiration date. Specifically, the expiration date for Operating License (OL) No. DPR-46 would be changed from June 4, 2008 to January 18, 2014.

Summary of Environmental Assessment

The Commission's staff has reviewed the potential environmental impact of the proposed change in the expiration date of the OL for Cooper Nuclear Station. This evaluation considered the previous environmental studies, including the Final Environmental Statement (FES) dated February 1973, and more recent NRC policy.

Radiological Impacts

The demographic stability of the region near the Cooper Nuclear Station noted in the FES continues to be a valid assessment. The area remains predominantly rural and agricultural and is expected to remain so through the life of the plant. The estimated population doses from the operation of the unit will be maintained as low as reasonably achievable by the radioactive waste and effluent release systems and the controls which govern their operation. As stated in the no significant hazards consideration determination published on November 15, 1989 (54 FR 47607), the change in the expiration date is consistent with the originally engineered design life of the plant, i.e., 40 years of operation. The original design and such consideration as surveillances, inspections testing and maintenance programs ensure that the probability or consequences of accidents are not increased and that adequate safety margins are maintained. Accordingly, radiological impacts to the general public, considering both routine operations and potential accidents, are not significantly affected by the extension of the Cooper license to January 18, 2014.

Regarding the uranium fuel cycle and transportation of fuel and waste, the major assumptions of the FES continue to bound the operation of the unit. Although the additional years of operation will proportionally increase the total fissile uranium required, implementation of 18 month fuel cycles will actually result in the discharge of fewer total fuel assemblies. The fuel parameters such as enrichment and burnup are bounded by the assumptions used in the "NRC Assessment of the Environmental Effects of Transportation Resulting from Extended Fuel

Enrichment and Irradiation" (53 FR 20355). The annual production of low-level waste has been significantly below the FES assumptions and is not expected to significantly increase during the additional years of operation.

Cooper has consistently maintained occupational exposures significantly below that experienced at other BWR units. The licensee has implemented numerous ALARA-related programs and no significant increase in the annual collective occupational exposures to workers during the additional years of plant operation is anticipated.

Non-Radiological Impacts

The Commission has concluded that the proposed extension will not introduce any significant impacts over those discussed in the FES.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed action. The staff has reviewed the proposed license amendments relative to the requirements set forth in 10 CFR part 51. Based on this assessment, the staff concludes that there are no significant radiological or non-radiological impacts associated with the proposed action and that the proposed action will not change any conclusions reached by the Commission in the FES. Therefore, pursuant to 10 CFR 51.31, an environmental impact statement need not be prepared for this action. Based upon this environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see (1) The application for amendment dated August 31, 1989, (2) the Final Environmental Statement related to operation to Cooper issued February 1973, and (3) the Environmental Assessment dated May 22, 1991. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555 and at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Dated at Rockville, Maryland, this 22nd day of May 1991.

For the Nuclear Regulatory Commission,

Theodore R. Quay,

Director, Project Directorate IV-1, Division of
Reactor Projects III, IV, and V, Office of
Nuclear Reactor Regulation.

[FR Doc. 91-13229 Filed 6-4-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-245]

Northeast Nuclear Energy Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of exemptions from the requirements of 10 CFR part 50, appendix J to the Northeast Nuclear Energy Company (the licensee) for Millstone Nuclear Power Station, Unit No. 1, located at the licensee's site in New London County, Connecticut.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant exemptions from 10 CFR part 50, Appendix J, § IILC concerning Type C leakage testing for certain containment isolation valves. The proposed action is in accordance with the licensee's request for exemption dated April 29, 1988, as supplemented by letters dated May 19, 1989 and November 8, 1990.

The Need for the Proposed Action

Appendix J to 10 CFR part 50 defines "Type C Tests" as "... tests intended to measure containment isolation valve leakage rates." The testing and repair (as needed) of containment isolation valves assures that these valves will not be the source of unacceptable containment leakage, and thus, environmental impact, following a design basis accident. The licensee has requested that they be exempted from Type C test requirements for certain containment isolation valves. In some cases, alternate tests were proposed.

The basis for the proposed exemptions is that Type C testing of the subject valves would not serve the underlying purpose of the rule (appendix J § IILC) and thus is not necessary.

Environmental Impacts of the Proposed Action

The NRC staff has completed its evaluation of 15 relief requests concerning appendix J § IILC. These 15 relief requests fall into one of the following classifications:

- The request is unacceptable—In 10 cases, the NRC staff determined that the licensee had not sufficiently justified the need for the proposed exemptions. In these cases, there will be no environmental impact in that no exemptions will be granted.

- No exemption is needed—In one case, the NRC staff determined that the subject containment isolation valves fall outside the scope of appendix J Type C testing and that no exemption is required. In this case, there will be no environmental impact in that the subject valves need not have been included in the Type C test program.

- The request is acceptable and the exemption may be granted—In four cases, the requested exemptions were found to be acceptable. In these cases, the licensee proposed acceptable, alternative testing. While the alternative testing was not considered to be equivalent to the required testing, it was judged to be adequate to detect potential leakage that could increase post-accident releases from containment. Accordingly, use of the proposed alternative testing would have no environmental impact since any significant leakage would be detected and repaired as part of the routine test program.

Based upon the above, the Commission concludes that there are no environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemptions, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the exemptions would be to deny the requested exemptions. Such action would not enhance the protection of the environment and would result in unjustified costs for the licensee.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for Millstone, Unit 1.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to

prepare an environmental impact statement for the proposed exemptions.

For further details with respect to this proposed action, see the licensee's letter dated April 29, 1988 and the supplements dated May 19, 1989 and November 8, 1990. This letter and the supplements are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street NW., Washington, DC, and at the Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Dated at Rockville, Maryland this 30th day of May 1991.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I-4, Division of Reactor Projects—1/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91-13230 Filed 6-4-91; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR REGULATORY COMMISSION

Application for a License To Export Nuclear Material

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following application for an export license. Copies of the application are on file in the Nuclear Regulatory Commission's Public Document Room located at 2120 L Street, NW., Washington, DC.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the *Federal Register*. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the application for a license to export special nuclear material noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the material to be exported. The information concerning this application follows.

NRC EXPORT LICENSE APPLICATION

Name of applicant, date of appl., date received, application No.	Material type	Material in (kilograms)		End use	Country of destination
		Total element	Total isotope		
Transnuclear, Inc. 05/07/91, 05/10/91, XSNM02611.	93.45% Enriched Uranium	38.285	35.8	Fuel for HFR/Petten Reactor	The Netherlands.

Dated this 29th day of May 1991 at Rockville, Maryland.
For the Nuclear Regulatory Commission.
Ronald D. Hauber,
Assistant Director for Exports, Security, and Safety Cooperation, International Programs, Office of Governmental and Public Affairs.
[FR Doc. 91-13231 Filed 6-4-91; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF THE NUCLEAR WASTE NEGOTIATOR

Operating Procedures; Intent To Coordinate on Feasibility Assessment Grants; and Intent To Negotiate Agreements

AGENCY: Office of Nuclear Waste Negotiator.

ACTION: Notice of operating procedures; notice of intent to coordinate with the Department of Energy on the review and evaluation of financial assistance feasibility grants; and notice of intent to negotiate agreements with potential host jurisdictions.

SUMMARY: Title IV of the Nuclear Waste Policy Act of 1982, as amended, 42 U.S.C. 10101 et seq., (Act), authorizes the Office of the Nuclear Waste Negotiator (NWN) to negotiate with the interested Governor of any States and with the interested governing body of any Indian tribes, regarding the voluntary hosting of a high-level nuclear waste (HLW) permanent repository or a temporary monitored retrievable storage (MRS) facility within those jurisdictions. By this notice the Negotiator announces:

(1) The basic operating procedures which will be utilized in the solicitation of interest, subsequent negotiation, and presentation of proposed agreements to Congress;

(2) The intent to coordinate with the Department of Energy (DOE) in the review and evaluation process for requests for financial assistance received from potential host jurisdictions interested in studying the feasibility of siting an MRS facility under section 406(b) of the Act; and

(3) The intent to negotiate an agreement containing reasonable and appropriate terms and conditions

(including financial and institutional arrangements) with the Governor of any States and the governing body of any Indian tribes interested in the potential hosting of a repository or MRS facility as authorized by section 403 of the Act.

ADDRESSES: Office of the Nuclear Waste Negotiator, 3050 North Lakeharbor Lane, Suite 100, Boise, Idaho 83703; FAX (208) 334-9880.

FOR FURTHER INFORMATION CONTACT: Charles B. Lempeis, Chief of Staff, at the address above, telephone (208) 334-9876.

SUPPLEMENTARY INFORMATION:

(1) Mission of the NWN

The Act charges the Negotiator with four primary tasks which include:

(a) To seek a preliminary dialogue with the Governor of any States and the governing body of any Indian tribes in order to make available to them credible information and resources from which they may determine for themselves upon what terms and conditions, if any, they would be willing to host a permanent geologic repository or MRS facility.

Sec. 402(b)(2) states: The Negotiator shall attempt to find a State or Indian tribe willing to host a repository or monitored retrievable storage facility at a technically qualified site on reasonable terms and shall negotiate with any State or Indian tribe which expresses an interest in hosting a repository or monitored retrievable storage facility.

(b) To determine if there is an interested jurisdiction, and if so, to negotiate an agreement with such jurisdiction in a manner that encourages constructive public involvement, forthrightly addresses all concerns of the prospective host and affected and interested parties, and achieves mutual benefit for the host jurisdiction and the federal government on terms and in a manner that will lead to a formal agreement and lasting cooperation.

Sec. 403(a)(1)(A) states: The Negotiator shall seek to enter into negotiations on behalf of the United States, with—

(i) the Governor of any state in which a potential site is located; and
(ii) the governing body of any Indian tribe on whose reservation a potential site is located; * * *

Sec. 403(a)(1)(B) states: The Negotiator shall attempt to reach a proposed agreement

between the United States and any such State or Indian tribe specifying the terms and conditions under which such State or tribe would agree to host a repository or monitored retrievable storage facility within such State or reservation.

(c) To present any reasonable proposed agreement to the Congress of the United States for enactment into law, and where circumstances require, facilitate the resolution of differences between the host jurisdiction and the Federal government relevant to the consummation of such a formal agreement.

(d) To consult with any State, affected unit of local government, or Indian tribe that may be affected by the siting of a repository or MRS facility.

Sec. 403(b) states: * * * the Negotiator shall consult with any State, affected unit of local government, or any Indian tribe that the Negotiator determines may be affected by the siting of a repository or monitored retrievable storage facility and may include in any proposed agreement such terms and conditions relating to the interest of such States, affected units of local government, or Indian tribes as the Negotiator determines to be reasonable and appropriate.

(2) Goals of the NWN

The Negotiator has adopted key program goals to ensure that the mission of the NWN is accomplished as required by the Act. Each of these goals is derived from the language and intent of the legislation. These program goals include:

- Establishing itself as a Federal office that is independent of other agencies or departments involved with current or previous efforts to site a HLW repository or MRS facility in the United States;
- Establishing a program that addresses and recognizes at the outset and throughout, the needs and concerns of the jurisdictions that are being asked to consider the possibility of hosting the nation's first HLW management facilities;
- Designing a communication process that enables all interested jurisdictions, interest groups, the public, Congress, and other entities to participate in an open dialogue about the important issues surrounding the

management and disposal of HLW in the U.S.;

- Creating a centralized body of knowledge regarding the voluntary siting of controversial facilities by negotiation and similar initiatives;
- Creating an environment in which interested jurisdictions can become equal partners in defining the specific terms and conditions under which they could consider hosting a HLW management facility.

(3) Basic Operating Procedures

Sec. 403 of the Act provides that the Negotiator shall seek to enter into negotiations on behalf of the United States leading to a proposed agreement with a State or Indian tribe. Section 403(d)(1) provides that the proposed agreement shall be submitted to Congress along with an environmental assessment for the site concerned. Section 403(d)(2) provides that the proposed agreement shall contain terms and conditions including financial and institutional arrangements, as the Negotiator and the host State or Indian tribe determine to be reasonable and appropriate, including such provisions as are necessary for preserving any right of participation or compensation of such State, Indian tribe, or affected unit of local government under section 116(c), 117 and 118(b) of the Act. The terms State, Indian tribe, and affected unit of local government, are defined at section 401, 2(15), and 2(31) of the Act, respectively.

The basic operating procedures which will be utilized in the solicitation of interest, subsequent negotiation, and presentation of proposed agreements to Congress, are as follows:

- On May 3, 1991, the Negotiator sent a letter of introduction to all States and Indian tribes that included informational materials on the NWN and the Act. Additional informational materials will be provided to States and Indian tribes by the Negotiator as they become available and upon request.
- In this same issue of the Federal Register, DOE is publishing a notice of availability of grants to assess the feasibility of hosting an MRS facility. Subsequent to this notice, States, Indian tribes, and affected units of local government may request grant funding to assess feasibility issues. Feasibility grants will be awarded by DOE.
- On or about October 1, 1991, the Negotiator will issue a formal request for expressions of interest to States and Indian tribes. Prior to that time, the Negotiator will be prepared to

conduct preliminary discussions with any interested State or Indian tribe.

- Interested States or Indian tribes, based on grant-funded feasibility assessments or other information, may decide to proceed to enter into negotiations with the Negotiator to develop a mutually acceptable written agreement for the construction and operation of a facility at a site within their jurisdiction. Such agreements will contain terms and conditions (including financial and institutional arrangements) as the Negotiator and the host State or Indian tribe determine to be reasonable and appropriate.
- As negotiations commence, the preparation of an environmental assessment under sec. 404 of the Act will begin and public hearings to address issues that need to be analyzed in the environmental assessment will be held.
- The Negotiator will initiate a consultation with Federal agencies concerning the technical suitability of any site under negotiation.
- As the Negotiator and the interested State or Indian tribe complete a negotiated agreement, the environmental assessment will also be finished.
- The Negotiator will formally submit the negotiated agreement and environmental assessment to Congress and the agreement will become effective when acted on by Congress and signed by the President into law.

The Negotiator is available at this time to receive requests for further information, to accept public comments, or to begin preliminary discussions with States and Indian tribes. As noted above, on or about October 1, 1991, the Negotiator will issue a formal written request for expressions of interest from States and Indian tribes.

(4) Financial Assistance for Feasibility Assessment

DOE, on May 8, 1991, at Volume 56, Number 89, page 21360 of the Federal Register, gave notice of intent to make grants of financial assistance for feasibility assessment studies for an MRS facility available to States, Indian tribes, and affected units of local government pursuant to sec. 406(b) of the Act. In this issue of the Federal Register DOE is announcing the availability of those grants. DOE will provide information to the Negotiator about any grant application requests received. The Negotiator may review and comment on the requests prior to the time that DOE takes action to grant or deny a request.

(5) Negotiation of Terms, Conditions and Equities

States and Indian tribes shall determine for themselves whether entering into a negotiation to address the possible terms and conditions of a proposed agreement is appropriate to their circumstances. Any discussion or negotiation undertaken with the Negotiator shall be entirely voluntary and may be terminated at will by the potential host jurisdiction. The Negotiator also reserves the right to terminate negotiations. It is not necessary for a State or Indian tribe to specify a specific site or sites for any facility when expressing an initial interest or engaging in a preliminary dialogue with the Negotiator. An interested jurisdiction may discuss and negotiate either an MRS facility or a repository, or both, depending on the jurisdiction's own feasibility assessment and level of interest.

All aspects of a potential agreement are subject to discussion and negotiation. The Negotiator desires to engage in the broadest possible discussion of such terms and conditions as the potential host believes are relevant to a final determination of the feasibility of siting a facility. The Negotiator envisions that among the important issues to be discussed and negotiated may be the host jurisdiction's choices and concerns as to assurances of safety, participation and oversight, choices of technology, mitigation of real and perceived costs, restoration and enhancement of the environment, and other related ecological or human impacts and considerations, as well as the possibility of private sector participation.

Section 403(d)(2) authorizes the Negotiator to address for inclusion in any proposed agreement, the means of achieving equity with any State or Indian tribe which provides assistance to the Nation by hosting a permanent repository or MRS facility. To achieve equity with the host jurisdiction for its contribution in resolving the storage and disposal issue the Negotiator is authorized to negotiate and include in a proposed agreement benefits and resources to assist the host jurisdiction. In addition to the other terms and conditions important to the host, negotiations may include reasonable institutional and fiscal arrangements for achieving equity, which, for purposes of example only, could include federal contributions to the following types of public programs, projects and problem solving:

- (a) Infrastructure improvements including highways, railroads, waterways, airports or other public projects;
- (b) Environmental improvements including the cleanup of existing air, water or waste problems;
- (c) Public school assistance programs;
- (d) Higher education programs;
- (e) Health care programs;
- (f) Proposed co-locations of other federal projects or existing federal program expansions;
- (g) General economic development programs;
- (h) The transfer of ownership of federal properties;
- (i) Tax subsidy or property value protection programs;
- (j) Public recreation improvement projects;
- (k) Direct financial assistance;
- (l) Local employment or products purchasing agreements;
- (m) Any other type of assurance, equity or assistance desired by the State or Indian tribe.

Any type of benefit or equity arrangement may be specified for negotiation by the potential host. Benefits sought need not be directly related to the proposed facility. All proposals for benefits and the total fiscal impact of any proposed agreement are subject to the review of Congress.

Section 405(b) provides that prior to the construction of either a repository or MRS, a construction authorization must be approved by the Nuclear Regulatory Commission. Under section 403(b) of the Act, the Negotiator is directed to consult with any State, affected unit of local government, or Indian tribe that may be affected by the siting of a repository or MRS facility in another jurisdiction and may include terms relating to their interest in any proposed agreement.

Written comments or requests for further information are encouraged through the agency contact address.

David H. Leroy,
Negotiator.

[FR Doc. 91-13232 Filed 6-4-91; 8:45 am]

BILLING CODE 6820-01-M

POSTAL RATE COMMISSION

[A91-4]

San Francisco Main Post Office, California 94101 (Paul A. Lovinger, et al., Petitioners); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued May 30, 1991.

Docket Number: A91-4.

Name of Affected Post Office: San Francisco Main Post Office, California 94101.

Name(s) of Petitioner(s): Paul Lovinger and others.

Type of Determination: Closing.

Date of Filing of Appeal Papers: May 21, 1991.

Categories of Issues Apparently Raised:

1. Whether Postal Service's action is subject to the requirements of 39 U.S.C. 404(b)

2. Effect on the community [39 U.S.C. 404(b)(2)(A)].

3. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule [39 U.S.C. 404(b)(5)], the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission Orders

(A) The record in this appeal shall be filed on or before June 5, 1991.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Charles L. Clapp,
Secretary.

Appendix—San Francisco Main Post Office, California 94101

May 21, 1991—Filing of Petition

May 30, 1991—Notice and Order of Filing of Appeal

June 17, 1991—Last day of filing of petitions to intervene [see 39 CFR 3001.111(b)].

June 25, 1991—Petitioners' Participant Statement or Initial Brief [see 39 CFR 3001.115(a) and (b)].

July 16, 1991—Postal Service Answering Brief [see 39 CFR 3001.115(c)].

July 31, 1991—Petitioners' Reply Brief should Petitioners choose to file one [see 39 CFR 3001.115(d)].

August 7, 1991—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR 3001.116].

September 18, 1991—Expiration of 120-day decisional schedule [see 39 U.S.C. 404(b)(5)].

[FR Doc. 91-13176 Filed 6-4-91; 8:45 am]

BILLING CODE 7710-FW-M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Meetings

Notice is hereby given of the meetings of the Prospective Payment Assessment Commission on Tuesday and Wednesday, June 18-19, 1991, at The Madison Hotel, 15th & M Streets NW., Washington, DC.

The Subcommittee on Hospital Inpatient Care (formerly Hospital Productivity and Cost-Effectiveness) will meet in Executive Rooms 1, 2 and 3 at 9 o'clock a.m., June 18, 1991. The Subcommittee on Hospital Outpatient and Other Facility Services (formerly Diagnostic and Therapeutic Practices) will convene at the same time and date in Drawing Rooms I and II.

The Full Commission will convene at 1:30 p.m. January 18, 1991, and at 9 o'clock a.m. on January 19, 1991, in Executive Rooms 1, 2 and 3.

All meetings are open to the public.

Donald A. Young,
Executive Director.

[FR Doc. 91-13153 Filed 6-4-91; 8:45 am]

BILLING CODE 6820-BW-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-29241; File No. SR-Amex-90-28; Amendment No. 3]

Self-Regulatory Organizations; American Stock Exchange Inc.; Notice of Filing of Proposed Rule Change Relating to Accrued Dividend Equivalent Applicable to Equity Index Participation.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 7, 1991, the American Stock Exchange, Inc. ("Amex") or ("Exchange") filed with the Securities and Exchange Commission ("Commission"), the proposed rule change as described in items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to adopt rule 900F(b)(6) to define "Dividend Equivalent Day," and to add Commentary .01 to rule 904F to describe the "Accrued Dividend Equivalent." The

text of the proposed rule change is attached as exhibit A.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The Amex has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange has previously proposed amendments to Amex Rules 903F (Liquidating Index Value), 904F (Cash-Out Privilege), and 910F (Exercise of Physical Delivery or Cash-Out Privilege) in order to accommodate daily exercise of the Equity Index Participation ("EIPs") cash-out privilege. (See SR-Amex-90-28, Release No. 34-28687 (December 10, 1990) 55 FR 51980; Amendment No. 1, Release No. 34-28781 (January 14, 1991) 56 FR 2569. The Exchange has proposed further amendments to Rules 903F, 904F and 910F to provide that the liquidating index value applicable to exercises of the quarterly delivery privilege or the cash-out privilege on any trading day will be derived from opening prices reported by the primary market for component EIP index stocks on the next succeeding trading day; and to specify procedures for notice of exercise of the physical delivery or cash-out privilege. (See SR-Amex-90-28, Amendment No. 2, Release No. 34-29032 (April 1, 1991) 56 FR 1440.

In Amendment No. 2, the Exchange described certain modifications to the dividend equivalent payment feature to provide that an EIP holder exercising the cash-out privilege on any trading day would receive a dividend equivalent payment representing the accrued dividend equivalent from writers of the assigned short positions. The Exchange is not proposing to codify these modifications in its rules and to set forth procedures for calculation by the Reporting Authority of the accrued dividend equivalent.

New Commentary .01 to Rule 904F ("Cash-Out Privilege") would specify that the Reporting Authority, which may include the Exchange or another entity designated by the Exchange, shall determine the accrued dividend equivalent each business day for each class of EIPs. The Exchange will report this number to The Option Clearing Corporation ("OCC") for purposes of facilitating payment to persons exercising the daily cash-out privilege or the quarterly physical delivery privilege, and to all EIPs holders on the business day preceding the quarterly Dividend Equivalent Day. The term "Dividend Equivalent Day" is defined in proposed Rule 900F(b)(6).

The accrued dividend equivalent includes ordinary cash dividends accrued during the quarter for each underlying index stock with an ex-dividend date during the quarter. Such amount will represent the cash dividend paid by each index company adjusted to reflect the relative weight of the security in the index. Cash dividends other than ordinary dividends as well as stock dividends will be excluded insofar as they are the subject of an adjustment to the underlying index divisor.

The quarterly dividend accrual period is specified as beginning on the first business day following the dividend equivalent day (e.g., the Monday following the third Friday in March, June, September and December) and extending through and including the next quarterly dividend equivalent day.

Rule 904F would be amended to clarify that a holder exercising the cash-out privilege on any business day will receive an accrued dividend equivalent payment as well as the liquidating index value. Rule 905F would clarify that persons exercising the quarterly physical delivery privilege would receive an accrued dividend equivalent payment as well as physical delivery of index shares.

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has discussed the proposed rule changes with OCC staff.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Amex consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex.

All submissions should refer to (File No., SR-Amex-90-28 and should be submitted by June 26, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 28, 1991.

Jonathan G. Katz,
Secretary.

Exhibit A—American Stock Exchange, Inc.; Proposed Rule Change (Brackets indicate deletions from current Exchange rules; italics indicate proposed additions to current rules.)

Rule 900F(b)

(6) *Dividend Equivalent Day*—The term "dividend equivalent day" in respect of a class of Equity Index Participations means the business day in each calendar quarter on which all holders of one or more minimum trading units of Equity Index Participations as of the close of trading on the preceding business day are entitled to receive, and all persons with short positions in one or more minimum trading units of Equity Index Participations are obligated to pay the accrued dividend equivalent, in accordance with rules and procedures of the Options Clearing Corporation. The dividend equivalent day shall be the third Friday of March, June, September and December, or such other day in each calendar quarter as the Exchange may specify. Any change to the dividend equivalent day in respect of a class of Equity Index Participations shall be announced by the Exchange prior to the beginning of the quarter to which it is applicable.

Cash-Out Privilege

Rule 904F. The holder of an Equity Index Participation who has not exercised the physical delivery privilege with respect to such participations shall have the right to obtain [on each cash-out time,] the following upon exercise of the cash-out privilege in accordance with the Rules of The Options Clearing Corporation [.]:

(1) the liquidating index value of such Equity Index Participation [.] and (2) the accrued dividend equivalent payment as of the business day following exercise of the cash-out privilege. A holder may exercise of the cash-out privilege on any business day.

Commentary .01 The Reporting Authority shall determine on each business day the accrued dividend equivalent with respect to a class of Equity Index Participations. The accrued dividend equivalent shall include ordinary cash dividends accrued during each quarterly period for all stocks in the index underlying a class of Equity Index Participations with an ex-dividend date during such quarterly period. The calculation by the Reporting Authority shall represent the amount of ordinary cash dividends payable with respect to each component stock with an ex-dividend date up to

and including the date the accrued dividend equivalent is determined, adjusted to reflect the relative weight of the security in the index. As a general rule, such amount shall exclude any cash or stock dividend that is the subject of an adjustment to the underlying index divisor; provided, however, that the Exchange shall have the power to determine, on a case by case basis, whether a dividend constitutes an "ordinary cash dividend" for purposes of this rule. The quarterly accrual period shall begin on the first business day following the dividend equivalent day and shall extend through and include the following dividend equivalent day. The accrued dividend equivalent as determined by the Reporting Authority shall be reported each business day by the Exchange to The Options Clearing Corporation and shall be deemed final.

Physical Delivery Privilege

Rule 905F. The holder of one or more delivery units that has not exercised the cash-out privilege with respect to such units shall have the right to obtain on each delivery time, upon exercise of one or more full delivery units in accordance with the Rules of The Options Clearing Corporation, the physical delivery of the proportionate number of shares of each stock comprising the underlying index, and payment of the accrued dividend equivalent, subject to the following conditions:

(See File No. SR-Amex-90-28, Release No. 34-28687, December 10, 1990 for proposed changes to rule 905F, paragraphs (f) and (h)).

[FR Doc. 91-13166 Filed 6-4-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29239; International Series Release No. 277; File No. SR-AMEX-91-08]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Addition of One Expiration Month for the Japan Index Option

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 26, 1991, the American Stock Exchange, Inc. ("AMEX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The AMEX proposes to add one expiration month in the current calendar year for the Japan Index ("JPN") Option.

The text of the proposed rule change is available at the Office of the Secretary, AMEX, and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

JPN options currently trade with three near-term expiration months plus five additional long-term months with consecutive June and December expirations extending into successive years. The Exchange is proposing to have the ability to add one additional JPN expiration month (March or September) in the current calendar year in order to permit JPN options to mirror the expiration cycle for Nikkei futures contracts traded on the Chicago Mercantile Exchange ("CME"). Since the Nikkei future trades on a March expiration cycle, i.e., March, June, September and December expirations, and the Exchange currently lists June and December expiration months, the ability to list March or September expirations would provide JPN options investors with a continuous hedging vehicle. For example, the Exchange currently lists expirations of May, June, July and December 1991, and would upon approval of this proposal, add a September 1991 expiration. According to the AMEX, this additional expiration month will enhance the ability of investors in JPN options to hedge with CME-traded Nikkei futures, thereby increasing the depth and liquidity of the JPN options market.

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules thereunder applicable to the Exchange since it is designed to give investors the ability to hedge their JPN positions with the future while increasing the depth and liquidity of the market. Therefore, the Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act which provides, in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade, and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The AMEX believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not received any formal comments regarding the proposed or existing rule.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated approval pursuant to section 19(b)(2) of the Act. The Commission finds that the proposed rule change to add an additional expiration month for JPN options is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) thereunder.¹

In particular, the Commission believes that the proposed rule change is designed to provide investors with an additional means and flexibility to hedge their JPN options positions, thereby providing greater depth and liquidity to the JPN options market and contributing to the protection of investors and the maintenance of fair and orderly markets. Specifically, by allowing investors an additional expiration month in JPN options in order to mirror the expiration cycle for Nikkei futures contracts traded on the CME, the AMEX proposal will permit investors to better protect their positions from adverse market moves. In addition, the AMEX proposal provides investors with an improved hedge for the options positions without significantly increasing concerns regarding

intermarket manipulations or disruptions of either the options, futures or underlying stock markets.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the *Federal Register* because of the importance of enhancing the depth and liquidity of JPN options markets. Accordingly, since May 17, 1991 is an Expiration Friday, the addition of the September series would have to be made after the May series expire, in order to mirror the expiration cycle of the Nikkei futures. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is appropriate and consistent with section 6 of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 26, 1991.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act,² that the proposed rule change (SR-AMEX-91-08) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 28, 1991.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-13169 Filed 6-4-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29246; File No. SR-CBOE-88-24, Amendment No. 2]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Notice of Filing of Amendment to Proposed Rule Change Relating to the Concentration of Options Market-Maker Business

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 13, 1991, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE hereby proposes to amend proposed rule 4.10 in order to limit the Exchange's ability to disapprove or condition transactions subject to the rule involving a subject member's guarantee of the liabilities of another person engaged in the business of effecting, executing, clearing or financing transactions in securities or futures products. The amendment would limit the Exchange's authority under the rule to those instances in which the subject member is acquiring directly or indirectly all or substantially all of the assets of the person whose liabilities are subject to the guarantee. The text of the proposed rule change is attached as exhibit A.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The CBOE has prepared summaries, set forth in sections (A) (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

¹ 15 U.S.C. 78s(b)(5)(1982).

² 15 U.S.C. 78s(b)(1982).

The original proposed amendments to rule 4.10 provide that CBOE members must provide prior notice to the Exchange market maker clearing for certain substantial business transactions ("SBTs") involving among other things, mergers, consolidations, and acquisitions with, or transfers of accounts from, another entity engaged in the securities or futures business. The proposal also provides that certain CBOE members with high concentrations of Exchange market maker clearing business must obtain prior approval from the CBOE to effectuate SBTs. The purpose of the proposed rule is to allow the Exchange to review transactions of certain of its clearing members that would increase market-maker clearing business, which could potentially adversely affect the financial or operational integrity of Exchange market-maker transactions.

As originally proposed, an SBT included any type of guaranty or assumption of liability not in the ordinary course of business. The current proposed amendment limits the review to the guaranty or assumption of liabilities of another entity engaged in the securities or futures business only if it is in connection with a direct or indirect acquisition of all or substantially all of that equity's assets. The CBOE believes this amendment is consistent with the stated purposes of the CBOE and will result in the rule 4.10 covering only those transactions that might warrant the prior review and approval procedures the CBOE is seeking to impose.

(2) Basis

The proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that it serves to protect investors and the public interest through the maintenance of a strong financial and operational system for the clearance of market-maker transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

One written comment was received with respect to the first amendment of the proposed rule (See Securities Exchange Act Release No. 28958 (March 11, 1991), 56 FR 11474). The revision as proposed herein specifically addresses the concerns raised in that comment.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organizations consents, the Commission will:

- (a) By order approve such proposed rule change, or
- (b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and written communications relating to the proposed rule change between the Commission and any person other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-88-24 and should be submitted by June 26, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 29, 1991.

Jonathan G. Katz,
Secretary.

Exhibit A—Proposed Rule Change Chicago Board Options Exchange, Incorporated

Additions reflected by italics,
deletions by brackets.

Rule 4.10—Financial or Operational Problems

- (a)—No change
- (b)(1)(i) through (b)(1)(ii)—No change
- (b)(1)(iii)—The assumption or guaranty by the member of liabilities, [otherwise than in the ordinary course of business,] or another person engaged in the business of effecting, executing,

clearing or financing transactions in securities or futures products, in connection with a direct or indirect acquisition of all or substantially all of that person's assets.

(b)(1)(iv) through (b)(1)(vii)—No change

(b)(2) through (b)(9)—No change
[FR Doc. 91-13171 Filed 6-4-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29250; File No. SR-GSCC-91-02]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Modification to Rule 26 Concerning Billing Procedures

May 29, 1991.

Pursuant to section 19(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b), notice is hereby given that on April 25, 1991, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission the proposed rule change as described in items I, II, and III below, which Items have been prepared by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would extend GSCC's authority to bill its members at the beginning of each month for the member's anticipated fee obligations for that month and for the following month. The advance billing would take into account any overcharge or undercharge made with respect to the member's activity during the previous month. Members would continue to be obligated to pay the charges upon receipt of the billing, and in no event later than the tenth day of the month in which the billing is received.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B),

and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) On January 4, 1990, the Commission approved rule filing SR-GSCC-89-15, which authorized GSCC to bill its members at the beginning of each month for such member's anticipated fee obligations for that month and for the following month (with an adjustment made to take into account any overcharge or undercharge made with regard to the member's activity during the previous month). The Commission's approval was issued on an accelerated, temporary basis until July 31, 1990.¹

On August 6, 1990, the Commission approved rule filing SR-GSCC-90-04, which requested an extension, until July 31, 1991, of GSCC's authority to pre-bill members.²

As an appropriate, prudent measure that will help ensure that GSCC remains in a financially sound cash position as it continues to gradually increase its level of participant base, GSCC now requests an extension of one year, until July 31, 1992, of the effective period of the current advance billing procedure. The Board of Directors and management of GSCC anticipate that, prior to July 1992, GSCC will file a request with the Commission for permanent authority to charge members on the tenth business day of a month for services rendered for that month only (with any necessary adjustments being made to the previous month's bill), and not for the next month as well. At the time of such a change, there would be a return made to GSCC members of one month's billed charges.

(b) The proposed rule change will promote the prompt and accurate clearance of securities transactions for which GSCC is responsible and is, therefore, consistent with the requirements of Section 17A of the Act, as amended, and the rules and regulations thereunder applicable to self-regulatory organizations.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have an impact on, or impose a burden on, competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rule change have not been solicited or received. Members will be notified of the rule filing, and comments will be solicited, by an Important Notice. GSCC will notify the Securities and Exchange Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to File No. SR-GSCC-91-02 and should be submitted by June 26, 1991.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 91-13167 Filed 6-4-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29245; File No. SR-NASD-91-10]

National Association of Securities Dealers, Inc.; Order Approving Proposed Amendments to Reporting Structure Plan Pursuant to Rule 17a-5(a)(4)

May 29, 1991.

Pursuant to rule 17a-5(a)(4) under the Securities Exchange Act of 1934 ("Act")¹ the National Association of Securities Dealers, Inc. ("NASD") requested approval from the Securities and Exchange Commission ("Commission") for several amendments to the NASD's Reporting Structure Plan ("Plan").² The amendments were submitted in conjunction with a proposed rule change, File No. SR-NASD-91-10, filed under section 19(b)(1) of the Act.³ SR-NASD-91-10 incorporated the substance of the proposed Plan amendments to the NASD's rules by changing the NASD practice of accepting from broker-dealers who are members of the NASD parts I, II, or IIA of Form X-17A-5 and the accompanying schedules ("FOCUS reports") in physical form. The Commission published SR-NASD-91-10 in the *Federal Register* of March 18, 1991⁴ and received no letters of comment. SR-NASD-91-10 was subsequently approved by delegated authority on April 18, 1991.⁵ For the reasons discussed below, the Commission is approving the proposed changes to the Plan.

Pursuant to the provisions of rule 17a-5(a)(3) under the Act, a registered broker or dealer is required to file FOCUS reports with the Commission's principal office in Washington, DC and the regional office of the Commission for the region in which the broker or dealer has its principal place of business.⁶ Rule 17a-5(a)(4), however, allows a broker or dealer to file FOCUS reports with a national securities exchange or a registered national securities association of which it is a member, if, "pursuant to a plan, procedures and provisions of which have been submitted to and declared effective by the Commission," said organization: (i) Maintains records containing the

¹ 17 CFR 240.17a-5(a)(4).

² Letter from the National Association of Securities Dealers, Inc. ("NASD") to Katherine A. England, Branch Chief, Over-the-Counter Regulation (February 15, 1991).

³ 15 U.S.C. 78s(b)(1).

⁴ Securities Exchange Act Release No. 28957 (March 11, 1991), 56 FR 11477 (March 18, 1991).

⁵ Securities Exchange Act Release No. 29105 (April 18, 1991), 56 FR 19131 (April 25, 1991).

⁶ 17 CFR 240.17a-5(a)(3).

¹ Securities Exchange Act Release No. 27587 (January 4, 1990), 55 FR 1131.

² Securities Exchange Act Release No. 28315 (August 6, 1990), 55 FR 32719.

FOCUS reports filed by such member, and (ii) transmits to the Commission a copy of the applicable parts of Form X-17A-5 filed by such member.⁷

In 1975, the NASD filed a plan pursuant to rule 17a-5(a)(4) under the Act, setting forth specific procedures to enable members to file FOCUS reports in physical form with the NASD. The proposed plan also established the manner in which the NASD would forward collected FOCUS reports to the Commission. On December 17, 1975, the Commission approved the proposed plan, declaring it effective as of January 1, 1976.⁸

The NASD proposes to amend the Plan to require NASD members subject to the criteria set forth below to file FOCUS reports through a centralized electronic mail filing system, rather than in physical form:

1. NASD members subject to the requirements of rule 15c3-3(e) under the Act⁹ shall file with the NASD a monthly Part I of Form X-17A-5 and a quarterly part II of Form X-17A-5.

2. NASD members conducting a business in accordance with the exemptive provisions of rule 15c3-3(k)(2)(i) under the Act¹⁰ shall file with the NASD a monthly part I of Form X-17A-5 and a quarterly part II of Form X-17A-5.

3. NASD members that conduct business in accordance with the exemptive provisions of rule 15c3-3(k)(2)(ii) under the Act¹¹ shall file a monthly part I of Form X-17A-5 and a quarterly part IIA of Form X-17A-5.

4. NASD members that conduct business in accordance with the exemptive provisions of rule 15c3-3(k)(1) or (k)(3) under the Act¹² shall file a quarterly part IIA of Form X-17A-5.

5. NASD members subject to the requirements of rule 15c3-3(e) under the Act¹³ or NASD members conducting a business in accordance with the exemptive provisions of rule 15c3-3(k)(1), (k)(2)(i), (k)(2)(ii) or (k)(3) under the Act¹⁴ that receive written notice from NASD that they have exceeded parameters of financial and operational condition established by the NASD shall file, monthly, or on such other basis as determined by the NASD, parts II or IIA

of Form X-17A-5, in addition to other financial and operational information.

6. All NASD members shall file schedule I of Form X-17A-5 for the fourth quarter ending December 31 of each year.

The proposed amendments requiring NASD members to file electronically would not apply to the annual audited financial statement filed pursuant to rule 17a-5(d) under the Act.¹⁵ In addition, the proposal to amend the Plan would delete the requirement that NASD members having annual gross revenues related to the securities business of not less than \$10 million for the calendar year file schedule III of Form X-17A-5.

The proposed amendments would not alter the NASD's commitment to share FOCUS reports with the Commission. Pursuant to the Plan, the NASD will continue to supply the Commission, on a quarterly basis, with edited data from the information contained in parts II and IIA of Form X-17A-5 filed by NASD members. This data will be supplied on "magnetic computer tape in a format compatible, to the extent technically possible, with the computer tape criteria specified by * * * the Commission."¹⁶ Upon the Commission's request, the NASD also will furnish the Commission with information contained in part I of Form X-17A-5 in a format mutually agreed upon by the NASD and the Commission.¹⁷

Rule 17a-5(a)(4) requires that the Commission review the proposed amendments to the Plan, "having due regard for the fulfillment of the Commission's duties and responsibilities under the provisions of the Act."¹⁸ In particular, section 17 of the Act directs the Commission to prescribe and administer rules relating to financial reporting requirements in a manner consistent with the "public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title."¹⁹

As stated by the Commission, the proposed amendments are consistent with the requirements of the Act and, in particular, with the provisions of section 15A(b)(6) of the Act.²⁰ This section of the Act requires that the rules of a national securities association designed to "foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating

transactions in securities, to remove impediments to and perfect the mechanism of a free and open market."²¹

Requiring electronic filing of FOCUS reports will ease the administrative burden and is expected to reduce the cost related to the filing and analysis of FOCUS reports. At the same time, the proposed amendments also will facilitate the timely and accurate reporting of FOCUS reports.

The filing of financial data in automated form will facilitate the analysis of the information provided by brokers or dealers. Expedient analysis of financial data will provide both the NASD and the Commission with a timely updated picture of the financial condition of brokers and dealers. This, in turn, will allow more rapid detection of brokers or dealers who might be enduring financial distress.

For the reasons stated above, the Commission, having due regard for the public interest and the protection of investors and the fulfillment of the Commission's functions under the provisions of the Act, hereby approves the proposed amendments to the NASD's Plan.

It is therefore ordered, pursuant to the provisions of rule 17a-5(a)(4) under the Act,²² that the proposed amendments to the NASD's Plan be, and are hereby, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.²³

Jonathan G. Katz,
Secretary.

[FR Doc. 91-13198 Filed 6-4-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29249; File No. SR-NYSE-91-15]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Listing of Index Warrants Based on the Standard & Poor's 500 Composite Stock Price Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 6, 1991, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in items I, II and III below, which Items have been prepared by the self-regulatory organization. The

⁷ 17 CFR 240.17a-5(a)(4).

⁸ Securities Exchange Act Release No. 11935 (December 17, 1975), 40 FR 59706, 59710-11 (December 30, 1975).

⁹ 17 CFR 240.15c3-3(e).

¹⁰ 17 CFR 240.15c3-3(k)(2)(i).

¹¹ 17 CFR 240.15c3-3(k)(2)(ii).

¹² 17 CFR 240.15c3-3(k)(1)(i), (k)(1)(ii), (k)(1)(iii) or (k)(3).

¹³ 17 CFR 240.15c3-3(e).

¹⁴ 17 CFR 240.15c3-3(k)(1)(i), (k)(1)(ii), (k)(1)(iii), (k)(2)(i), (k)(2)(ii) or (k)(3).

¹⁵ 17 CFR 240.17a-5(d).

¹⁶ Amended Plan 8.

¹⁷ *Id.* at 9.

¹⁸ 17 CFR 240.17a-5(a)(4).

¹⁹ 15 U.S.C. 78q(a)(1).

²⁰ 15 U.S.C. 78o-3(b)(6). Securities Exchange Act Release No. 29105, *supra* note 5 at 19132.

²¹ 15 U.S.C. 78o-3(b)(6).

²² 17 CFR 240.17a-5(a)(4).

²³ 17 CFR 200.30-3(a)(30).

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to approve for listing and trading under § 703.17 of its Listed Company Manual index warrants based on the Standard & Poor's 500 Composite Stock Price Index ("S&P 500 Index" or "Index"), a broad-based, capitalization-weighted index containing a representative sample of 500 common stocks, constructed by industry group, that trade on the NYSE and the American Stock Exchange and also contains over-the-counter stocks that are a part of the National Market System.

The text of the proposed rule change is available at the Office of the Secretary of the Exchange and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under § 703.17 (Index Warrants) of the Exchange's Listed Company Manual, the Exchange may list index warrants based on established foreign and domestic indices.

The NYSE is now proposing to list index warrants based on the S&P 500 Index, a broad-based, capitalization-weighted index of 500 stocks. The listing and trading of these index warrants on the NYSE, however, will be subject to the issuer receiving authorization from the Standard & Poor's Corporation to use the S&P 500 Index in connection with the warrants.

The NYSE represents that such Index warrant issues will conform to the listing guidelines under § 703.17, which provide that (1) the issuer shall have assets in excess of \$100,000,000 and

otherwise substantially exceed the size and earnings requirements in Section 102.01 of the Listed Company Manual; (2) the term of the warrants shall be for a period of at least one year from the date of issuance; and (3) the minimum public distribution of such issues shall be 1,100,000 warrants, together with a minimum of 400 public holders, and the warrants shall have an aggregate market value of \$4,000,000.

S&P 500 Index warrants will be direct obligations of their issuer subject to cash-settlement during their term, and either exercisable throughout their life (*i.e.*, American style) or exercisable only on their expiration date (*i.e.*, European style). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the S&P 500 has declined below a pre-stated cash settlement value. Conversely, holders of a warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the S&P has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the warrants would expire worthless.

The NYSE has adopted suitability standards applicable to recommendations to customers of index warrants and transactions in customer accounts. Specifically, Exchange Rule 405, Supplementary Material .30 applies the options suitability standard in Exchange Rule 723 to recommendations regarding Index warrants. The Exchange also requires that S&P 500 Index warrants be sold only to options-approved accounts. In addition, Exchange Rule 408, Supplementary Material .10 requires a Senior Registered Options Principal or a Registered Options Principal to approve and initial a discretionary order in Index warrants on the day the order is entered. Finally, the NYSE, prior to the commencement of trading in S&P 500 Index warrants, will distribute a circular to its membership calling attention to specific risks associated with warrants on the S&P 500 Index.

The Exchange believes that the proposed rule change is consistent with the requirements of the Act in general and furthers the objectives of section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NYSE believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (a) By order approve such proposed rule change, or
- (b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 26, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 29, 1991.

Jonathan G. Katz,
Secretary.

[FR Doc. 91-13170 Filed 6-4-91; 8:45 am]

BILLING CODE 9010-01-M

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration (ConferTech International, Inc., Common Stock, \$.01 Par Value) File No. 1-9744

May 30, 1991.

ConferTech International, Inc. ("Company"), has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder to withdraw the above specified security from listing and registration on the Boston Stock Exchange ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The stock is currently traded on the National Market System ("NMS") of the National Association of Securities Dealers Automated Quotation ("NASDAQ") system, and on the BSE. In light of an adequate trading market for the Company's stock in the NASDAQ/NMS, and no trading of the Company's stock on the BSE for the past year, the Company believes that continued listing on the BSE is unnecessary. The Company's stock will continue to be traded on NASDAQ/NMS.

Any interested person may, on or before June 20, 1991 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan Katz,
Secretary.

[FR Doc. 91-13172 Filed 6-4-91; 8:45 am]

BILLING CODE 9010-01-M

[Release No. IC-18168; 812-7560]

EBI Series Trust; Notice of Application

May 28, 1991.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: EBI Flex Fund of the EBI Series Trust (the "Trust"), and EBI Equity Fund, EBI Income Fund, and EBI Cash Management Fund of The EBI Funds, Inc. (the "Company").

RELEVANT 1940 ACT SECTIONS:

Exemption requested under section 6(c) of the 1940 Act from the provisions of sections 29(a)(32), 2(a)(35), 22(c) and 22(d) of the 1940 Act and Rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order amending an existing order (Investment Company Release No. 16873, March 17, 1989) ("Existing Order") which currently permits the assessment and waiver of a contingent deferred sales load ("CDSL"). The amended order would permit Applicants to change the way in which the CDSL is calculated.

FILING DATES: The application was filed on July 12, 1990, and amendments to the application were filed on March 25 and May 23, 1991.

HEARING OR NOTIFICATION OF HEARING:

An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 27, 1991, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicants, Suite 500, 1315 Peachtree Street, NE., Atlanta, Georgia 30309.

FOR FURTHER INFORMATION CONTACT: H.R. Hallock, Jr., Special Counsel, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application

may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust and the Company are both registered under the 1940 Act as open-end investment companies. EBI Flex Fund is a separate series of the Trust, and EBI Equity Fund, EBI Income Fund and EBI Cash Management Fund ("EBI Cash") are separate series of the Company (collectively, the "Funds"). INVESCO Services, Inc. ("Distributor") serves as principal underwriter for each of the Applicants.

2. The Existing Order conditionally exempts the Applicants from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the 1940 Act and rule 22c-1 thereunder to permit the assessment and waiver of a CDSL. The Existing Order, which amended three earlier orders (Investment Company Release No. 16283 (February 23, 1988); Investment Company Release No. 14916 (January 27, 1986); and Investment Company Release No. 13789 (February 24, 1984)), covers the Applicants and any additional series or classes of shares the Company or the Trust may offer in the future on substantially the same basis as the Funds (other than EBI Cash) now offer their shares.

3. Applicants now request that the Existing Order be amended to change the way in which the CDSL is calculated for shares of EBI Flex Fund, EBI Equity Fund and EBI Income Fund. Under the Existing Order, a CDSL is imposed, unless waived under certain circumstances, if an investor makes a partial or complete redemption of shares purchased under a plan of distribution pursuant to Rule 12b-1 under the 1940 Act (the "Rule 12b-1 Plans"). Each of the Funds (except EBI Cash) distributes its shares pursuant to separate Rule 12b-1 Plans. Because EBI Cash does not presently have a Rule 12b-1 Plan its shares are not subject to a CDSL. The Rule 12b-1 Plans provide that the applicable Fund, subject to an annual limitation of 1.25% of its average daily net assets, may pay the Distributor a commission equal to 5% of the total purchase price of each Fund's shares made by or through the Distributor.

4. The amount of the CDSL declines from 5% to 0% depending on the length of time the investment has been held in the Funds. The amount of a CDSL payable upon redemption is calculated as being the lesser of (a) the net asset value of the shares redeemed, or (b) the total purchase price of such shares. No CDSL is imposed on redemption proceeds derived from (a) increases in the value of an investor's account above

the total cost of such shares due to increases in the net asset value per share of the Funds, (b) shares acquired through reinvestment of dividend income and capital gains distributions, or (c) shares which, together with exchanged shares, have been held continuously for 60 months (or, for shareholders acquiring shares before May 15, 1989, 30 months). In determining the rate of any applicable CDSL, shares not subject to the CDSL will be redeemed first.

5. Under the existing CDSL, the amount of any CDSL is calculated by determining the month during which the purchase payment which was the source of the investment being redeemed was made and applying the appropriate percentage to the amount of the redemption subject to the charge. Under the current way of calculating the amount subject to the CDSL, the capital appreciation portion of the net asset value of the shares not redeemed reduces the amount of the redemption proceeds subject to the CDSL.

6. Under the proposed amended order the CDSL will be imposed, subject to the same waivers, if an investor makes a partial or complete redemption of shares purchased with respect to which commissions were paid for a 60 month period and will be assessed according to the same schedule as under the Existing Order. The manner in which the CDSL will be calculated under the proposed amended order differs from the way in which the CDSL is calculated under the Existing Order because, under the Existing Order, the CDSL amount is calculated based upon the amount by which an investor's account is reduced by the redemption below the amount of the investor's initial purchase payment. Under the proposed amendment, the CDSL amount will be calculated based upon the lesser of net asset value or cost of each share being redeemed. Except for the above-described change in the manner in which the CDSL will be calculated, the CDSL will be imposed in the same manner as it is being imposed under the Existing Order. The proposed modifications of the CDSL would not affect the existing exchange privileges of current shareholders.

Applicants' Legal Analysis

1. Applicants request an order amending the Existing Order and exempting Applicants, to the extent necessary, from sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the 1940 Act and Rule 22c-1 thereunder. Applicants assert that such an exemption, as required by the standards for an exemption under section 6(c) of the 1940 Act, is in the public interest and is

consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Applicants assert that the proposed amendment of the CDSL is fair and in the best interests of their shareholders. Applicants claim that changing the way of calculating the CDSL will result in (a) distribution expenses being allocated among shareholders on a more equitable basis and (b) distribution expenses being recovered more fairly. They state that calculating the amount of the CDSL as proposed will more fairly allocate distribution expenses among shareholders by charging shares being redeemed with the amount of distribution expenses chargeable to them without taking into account the appreciated net asset value of shares that are not being redeemed and without giving redeeming shareholders the benefit of any future decrease in the net asset value of those shares to the detriment of remaining shareholders. Under the proposed amendment to the Existing Order, the burden of reimbursement for distribution expenses would be placed on a more direct basis on those shareholders with respect to which distribution expenses were incurred, with such shareholders paying their fair share of unrecovered expenses.

3. Furthermore, the revised manner for calculating the CDSL will be implemented on a prospective basis, commencing on the date of issuance of the requested amended order and only after the revised computation method is set forth in the respective Funds' prospectuses, and, accordingly, the Applicants submit that permitting them to use the revised method for computing the CDSL will not harm any shareholder who purchased Fund shares under the CDSL as presently calculated. Finally, calculating the amount of a CDSL as proposed will enable Applicants to take advantage of new computer technology which allows for the function of determining the amount of a CDSL to be computerized.

Applicants' Conditions

If the requested amended order is granted, Applicants agree to the following conditions:

1. Applicants will comply with proposed Rule 6c-10 under the 1940 Act, as such Rule is currently proposed and as it may be repropounded, adopted, or amended.

2. Applicants will only calculate the CDSL under the revised computation method for those shares of the EBI Flex Fund, EBI Equity Fund, and EBI Income Fund subject to a CDSL purchased after the date of issuance of the requested

amended order, and only after the revised computation method is set forth in the current prospectuses of those Funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-13217 Filed 6-4-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18167; 812-7623]

The Infinity Mutual Funds, Inc., et al.

May 23, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an Exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: The Infinity Mutual Funds, Inc. ("Fund") on behalf of its Correspondent Cash Reserves Money Market Portfolio ("Taxable Portfolio") and its Correspondent Cash Reserves Municipal Portfolio ("Municipal Portfolio") and Concord Holding Corporation ("CHC") and Concord Financial Group, Inc. ("CFG"), and on behalf of each other series of the Fund now or hereafter established (such series, together with each Portfolio, referred to as "Series") for which CHC or any affiliate serves as administrator, or CFG or any affiliate serves as distributor.

RELEVANT SECTION OF THE ACT:

Exemption requested under section 6(c) from the provisions of sections 18(f)(1), 18(g), and 18(i).

SUMMARY OF APPLICATION: Applicants seek an order permitting the Fund to issue and sell separate classes of shares representing interests in the same investment portfolio, which classes would be identical in all respects except for class designation, voting rights, exchange privileges, and the allocation of certain expenses.

FILING DATE: The application was filed on November 6, 1990 and amended on April 22, 1991 and May 24, 1991.

HEARING OR NOTIFICATION OF HEARING:

An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 25, 1991 and should be accompanied by proof of service on the applicants, in the

form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, The Infinity Mutual Funds, Inc., 156 West 56th Street, Suite 1902, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Kimberly Warren, Staff Attorney, at (202) 272-3026, or Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch

Applicant's Representations

1. The Fund is a Maryland corporation and a registered open-end management investment company under the Act. To date, the Fund has established five series: the Municipal Portfolio, the Taxable Portfolio, the Pegasus Prime Portfolio, the Alpha Prime Portfolio and the Alpha Government Securities Portfolio.¹ The shares of each series are registered under the Securities Act of 1933 and the Act. Each portfolio is a money market mutual fund.

2. The distributor of the fund is CFG. CHC is the administrator of the Fund. Mitchell Hutchins Asset Management Inc. ("MHAM"), an affiliate of PaineWebber Incorporated ("PaineWebber"), serves as investment adviser to the Taxable Portfolio and the Municipal Portfolio. Other entities unaffiliated with MHAM serve and, in the future, may serve as investment adviser to other Series.

3. The Fund proposes to file an amendment to its registration statement to permit shares of the Municipal Portfolio and the Taxable Portfolio to be divided into two separate classes, Class A and Class B. Class A shares will be offered for purchase only by certain securities dealers that have entered into clearing arrangements with PaineWebber ("correspondent firms") on behalf of their retail customers. Class B shares will be offered for purchase only by institutional investors that may include bank trust departments.

4. The Fund has adopted a plan pursuant to rule 12b-1 of the Act ("12b-1

Plan") with respect to the Class A shares of the Taxable Portfolio and the Municipal Portfolio. Pursuant to the 12b-1 Plan, the Fund is authorized to pay fees to correspondent firms ("Service Providers") under agreements related to such plan ("Plan Agreements"). The Class B shares will not bear expenses under a 12b-1 Plan.

5. Classes of shares relating to other Series would likewise differ in that they may incur expenses as a result of certain classes of shares being offered in conjunction with 12b-1 Plans while other classes may be offered in conjunction with non-rule 12b-1 shareholder services plans ("Shareholder Service Plans") with payment made by the Fund; with administrative plans with payments made by the adviser ("Administrative Plans"); or with no such plan at all; or with combinations of one or more of these arrangements. Expenses under a plan are referred to as "Plan Payments."

6. Payments made under the 12b-1 Plan currently adopted by the Fund shall not exceed .60 of 1% (annualized) of the average daily net asset value of those shares beneficially owned by customers of the Services Provider with respect to which services and assistance are provided under a Plan Agreement. This maximum payment level may be increased only with shareholder approval by the affected class. For other Series, the payment level pursuant to a 12b-1 Plan or other plan may vary based upon an independent determination by the Board of Directors and subject to any necessary shareholder approval by the affected class.

7. The provision of support services and distribution assistance under the 12b-1 Plan will augment, and not be duplicative of, the services that would otherwise have been provided to the Fund by MHAM (or other investment adviser). CHC, CFG and the Fund's transfer agent and custodian under various service contracts.

8. In addition to expenses incurred under a rule 12b-1 Plan or Shareholder Services Plan, each class of shares will bear certain expenses specifically attributable to the particular class as described in condition 1 ("Class Expenses"). The determination of which Class Expenses will be allocated to a particular class and any subsequent changes thereto will be determined by the Fund's Board of Directors in the manner described in condition 3.

9. Each class of shares may be exchanged only for shares of the same class of another Series. For example, Class A shares of the Municipal Portfolio may only be exchanged for Class A shares of the Taxable Portfolio.

10. Each class of shares of a Series will represent an equal *pro rata* interest in such Series and will have identical voting, dividend, liquidation and other rights, preferences, powers, restrictions, limitations, qualifications, designations and terms and conditions, except that: (a) Each class would have a different designation; (b) each class of shares offered in connection with a 12b-1 Plan or Shareholder Services Plan would bear the expense of payments made by the Fund under the Plan Agreements entered into with respect to such class; (c) each class of shares would bear certain Class Expenses; (d) only shareholders of the affected class would be entitled to vote on matters pertaining to the 12b-1 Plan and the Plan Agreements relating to such class in accordance with the procedures set forth in rule 12b-1; and (e) each class would have different exchange privileges.

11. The net asset value of all outstanding shares representing interests in a Series would be computed on the same days and at the same times by adding the value of all portfolio securities and other assets belonging to such Series, subtracting the liabilities charged to the Series, and dividing the result by the number of outstanding shares attributable to such Series. The Series' gross income would be allocated on the basis of net assets to each class and then divided by the number of outstanding shares of such class. Expenses of the Series will be apportioned to each class of shares depending upon the nature of the expense item. Fund Expenses and Series Expenses will be allocated among the classes of shares based on the value of their relative net assets at the end of the day. Class Expenses will be allocated to the particular class to which they are attributable.

12. Because of the Plan Payments and Class Expenses that would be borne by a class of shares, the net income of, and dividends payable to, such class would be somewhat lower than the net income of the matched class of shares that is not making such Plan Payments or bearing Class Expenses. Dividends paid to each class in a Series, however, would be declared and paid on the same days and at the same times, and, except as noted above, would be determined in the same manner and paid in the same amounts.

13. The representations in the application and the conditions imposed by any order will apply to any other Series relying on the order.

¹ The application describes only the Taxable Portfolio and the Municipal Portfolio as the Fund has no current intention of availing itself of the requested relief with respect to the other series.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act to the extent that the proposed issuance and sale of shares representing interests in a Series might result in a "senior security" within the meaning of section 18(g), and be prohibited by section 18(f)(1), or violate the equal voting provisions of section 18(i) of the Act.

2. Applicants assert that the proposed allocation of expenses and voting rights is equitable and would not discriminate against any group of shareholders. Investors purchasing shares offered in connection with a 12b-1 Plan would bear the costs associated with services rendered pursuant to the 12b-1 Plan and would possess exclusive shareholder voting rights with respect to matters affecting such 12b-1 Plan. Investors purchasing shares that are not covered by such 12b-1 Plan would not bear such expenses or possess such voting rights. The same is true for Series or classes which adopt a Shareholder Services Plan. With the exception of obtaining voting rights, the protections offered by rule 12b-1 would be accorded to shareholders of a class adopting a Shareholder Services Plan.

3. Applicants submit that the requested exemption is appropriate in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the proposed arrangement does not involve borrowing and will not increase the speculative character of the shares in a Series because all shares will participate in all of the Series' income and expenses on a pro rata basis with the exception of expenses assessed to a class pursuant to a 12b-1 Plan or Shareholder Services Plan and Class Expenses.

Applicants' Conditions

If the requested order is granted, applicants agree to the following conditions:

1. The classes will each represent interests in the same portfolio of investments of a Series, and be identical in all respects except for certain differences related to: (a) The method of financing certain Class Expenses, which are limited to: (i) transfer agent fees as identified by the transfer agent as being attributable to a specific class; (ii) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses and proxies to current shareholders; (iii) Blue Sky registration fees incurred by a class of shares; (iv) SEC registration fees incurred by a class

of shares; (v) the expense of administrative personnel and services as required to support the shareholders of a specific class; (vi) litigation or other legal expenses relating solely to one class of shares; (vii) directors' fees incurred as a result of issues relating to one class of shares; (b) expenses assessed to a class resulting from Plan Payments; (c) the related voting rights as to matters exclusively affecting one class of shares; (d) exchange privileges; and (e) class designation differences. Any additional incremental expenses not specifically identified above which are subsequently identified and determined to be properly allocated to one class of shares shall not be so allocated until approved by the SEC.

2. The Fund's Directors, including a majority of the noninterested Directors, will approve the offering of different classes of shares of a Series ("Distribution System"), prior to the implementation of the Distribution System. The minutes of the Directors' meetings regarding their deliberations with respect to the approvals necessary to implement the Distribution System will reflect in detail the reasons for the Directors' determination that the proposed Distribution System is in the best interests of both a Series and its shareholders.

3. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the Fund's Board of Directors, including a majority of the noninterested Directors. Any person authorized to direct the allocation and disposition of monies paid or payable by the Fund to meet Class Expenses shall provide to the Board of Directors, and the Directors shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the Fund's Directors, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the Fund for the existence of any material conflicts among the interests of the classes of shares. The Directors, including a majority of the non-interested Directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Series' investment adviser and CHC will be responsible for reporting any potential or existing conflicts to the Directors. If a conflict arises, such investment adviser and CHC at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

5. CFG will adopt compliance standards as to when each class of shares may be sold to particular investors. Applicants will require all persons selling shares of the Series to agree to conform to such standards.

6. Each 12b-1 Plan relating to the sale of any class of shares of a Series will be approved and reviewed by the Fund's Directors in accordance with the requirements and procedures set forth in rule 12b-1, currently and as that rule may be amended in the future. Any 12b-1 Plan adopted by the Directors to permit the assessment of a rule 12b-1 fee on any class of shares which has not had its 12b-1 Plan approved by the public shareholders of that class will be submitted to the public shareholders of such class for approval at the next meeting of shareholders after the initial issuance of the class of shares. Such meeting is to be held within 18 months of the date that the registration statement relating to such class first becomes effective or, if applicable, the date the amendment to the registration statement necessary to offer such class first becomes effective.

7. If any class will be subject to a Shareholder Services Plan, such Shareholder Services Plan will be adopted and operated in accordance with the procedures set forth in rule 12b-1(b) through (f) as if the expenditures made thereunder were subject to rule 12b-1, except that shareholders will not enjoy the voting rights specified in rule 12b-1. In evaluating the Shareholder Services Plan, the Directors will specifically consider whether: (a) the Shareholder Services Plan is in the best interest of the applicable classes and their respective shareholders; (b) the services to be performed pursuant to the Shareholder Services Plan are required for the operation of the applicable classes; (c) the Service Providers can provide services at least equal in nature and quality to those provided by others, including the Fund, providing similar services; and (d) the fees for such services are fair and reasonable in light of the usual and customary charges made by other entities, especially nonaffiliated entities, for services of the same nature and quality.

8. If any class will be subject to a Shareholder Services Plan, each Plan Agreement entered into pursuant to the Shareholder Services Plan will contain a representation by the Service Provider that any compensation payable to the Service Provider in connection with the investment of its customer's assets in a Series: (a) Will be disclosed by it to its customers; (b) will be authorized by its

customers; and (c) will not result in an excessive fee to the Service Provider.

9. If any class will be subject to a Shareholder Services Plan, each Plan Agreement entered into pursuant to the Shareholder Services Plan will provide that, in the event an issue pertaining to the Shareholder Services Plan is submitted for shareholder approval, the Service Provider will vote any shares held for its own account in the same proportion as the vote of those shares held for its customers' accounts.

10. The Fund's Directors will receive quarterly and annual statements concerning 12b-1 Plan and Shareholder Services Plan expenditures complying with rule 12b-1(b)(3)(ii), as it may be amended from time to time. In the statements, only expenditures properly attributable to a particular class will be used to justify any fee charged to that class. Expenditures not related to a particular class will not be presented to the Directors to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the non-interested Director's in the exercise of their fiduciary duties.

11. Dividends paid by the Fund with respect to a class of shares in a Series will be calculated in the same manner, at the same time, on the same day, and will be in the same amount as dividends paid by the Fund with respect to each other class of shares in the same Series, except that Class Expenses and payments made pursuant to a 12b-1 Plan or Shareholder Services Plan will be allocated exclusively to that class.

12. The methodology and procedures for calculating the net asset value and dividend distribution of the various classes and the allocation of expenses among the classes has been reviewed by an expert (the "Expert") who has rendered a report to the Applicants, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an on-going basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Fund that the calculations and allocations are being made properly. The Expert's report shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The Expert's work papers with respect to such reports, following request by the Fund (which the Fund agrees to provide), will be

available for inspection by the SEC staff upon the written request to the Fund for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrators or Associated and Assistant Administrators. The initial report of the Expert will be a "Special Purpose" report on the "Design of a System" and ongoing reports would be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in Statement of Auditing Standards No. 44 of the American Institute of Certified Public Accountants ("AICPA"), as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

13. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividend/distributions of the various classes and the proper allocation of expenses among the classes and this representation has been concurred with by the Expert in the initial report referred to in Condition 12 above and will be concurred with by the Expert or an appropriate substitute Expert on an ongoing basis at least annually in the on-going reports referred to in that condition. Applicants agree to take immediate corrective action if the Expert, or appropriate substitute Expert, does not so concur in the on-going reports.

14. The prospectus of each class will contain a statement to the effect that any person entitled to receive compensation for selling Series shares may receive different compensation with respect to one particular class of shares over another in the Series.

15. The conditions pursuant to which an exemptive order requested by the Application may be granted and the duties and responsibilities of the Directors of the Fund with respect to the multi-class distribution system described in the application will be set forth in guidelines which will be furnished to the Fund's Directors.

16. Each Series will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges, if any, applicable to each class of shares in such series in every prospectus pertaining to such Series, regardless of whether all classes of shares are offered through each prospectus. The Fund will disclose the respective expenses and performance data applicable to all

classes of shares in every shareholder report pertaining to such Series. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares of a Series, it will also disclose the respective expenses and/or performance data applicable to all classes of shares of such Series. The information provided by Applicants for publication in any newspaper or similar listing of a Series' net asset value and public offering price will present each class of shares separately.

17. Applicants acknowledge that the grant of the exemptive order requested by the Application will not imply Commission approval, authorization or acquiescence in any particular level of payments that the Fund may make pursuant to 12b-1 Plans or Shareholder Services Plans in reliance on the exemptive order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 91-13216 Filed 6-4-91; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—
Public Debt Series—No. 17-91]

Treasury Notes, Series AB-1993

Washington, May 23, 1991.

The Secretary announced on May 22, 1991, that the interest rate on the notes designated Series AB-1993, described in Department Circular—Public Debt Series—No. 17-91 dated May 16, 1991, will be 6¼ percent. Interest on the notes will be payable at the rate of 6¼ percent per annum.

Gerald Murphy,
Fiscal Assistant Secretary.

[FR Doc. 91-13177 Filed 6-4-91; 8:45 am]

BILLING CODE 4810-40-M

[Supplement to Department Circular—
Public Debt Series—No. 18-91]

Treasury Notes, Series P-1996

Washington, May 24, 1991.

The Secretary announced on May 23, 1991, that the interest rate on the notes designated Series P-1996, described in Department Circular—Public Debt Series—No. 18-91 dated May 16, 1991, will be 7½ percent. Interest on the notes

will be payable at the rate of 7% percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 91-13178 Filed 6-4-91; 8:45 am]

BILLING CODE 4810-40-M

Office of Thrift Supervision

Far West Federal Bank, S.B.; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Far West Federal Bank, S.B., Portland, Oregon (OTS No. 3091), on May 23, 1991.

Dated: May 30, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-13208 Filed 6-4-91; 8:45 am]

BILLING CODE 6720-01-M

Progressive Savings Bank, FSB; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Progressive Savings

Bank, FSB, Pasadena, California, on May 24, 1991.

Dated: May 30, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-13207 Filed 6-4-91; 8:45 am]

BILLING CODE 6720-01-M

Boonslick Federal Savings and Loan Association; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Boonslick Federal Savings and Loan Association, Boonville, Missouri ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on May 24, 1991.

Dated: May 30, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-13208 Filed 6-4-91; 8:45 am]

BILLING CODE 6720-01-M

Progressive Savings Bank; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5

(d)(2)(C) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Progressive Savings Bank, Pasadena, California, OTS No. 6962, on May 24, 1991.

Dated: May 30, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-13209 Filed 6-4-91; 8:45 am]

BILLING CODE 6720-01-M

Security Homestead FSA; Replacement of Conservator with a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Security Homestead FSA, New Orleans, Louisiana ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on May 24, 1991.

Dated: May 30, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-13210 Filed 6-4-91; 8:45 am]

BILLING CODE 6720-01-M

Sunshine Act Meetings

Federal Register

Vol. 56, No. 108

Wednesday, June 5, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10: a.m., Wednesday, June 5, 1991.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

Section 15 and Section 37 Interpretive Rules.

MATTERS TO BE CONSIDERED: The Commission will consider Federal Register documents proposing amendments to the Commission's rules interpreting Section 15 of the CPSA and proposing a rule interpreting Section 37 of the CPSA.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 492-6800.

Dated: May 30, 1991.

Sheldon D. Butts,
Deputy Secretary.

[FR Doc. 91-13410 Filed 6-3-91; 1:52 pm]

BILLING CODE 6355-01-M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, June 6, 1991.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda Maryland.

STATUS: Open to the Public.

1. Mid-Year Review.

MATTERS TO BE CONSIDERED: The Commission will consider mid-year review issues including proposed operating plan changes and new funding proposals.

2. Reloadable Aerial Shell Fireworks.

The staff will brief the Commission on a final rule to ban reloadable shell devices that use shells larger than 1.75 inches in outer diameter.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 492-6800.

Dated: May 30, 1991.

Sheldon D. Butts,
Deputy Secretary.

[FR Doc. 91-13411 Filed 6-3-91; 1:52 pm]

BILLING CODE 6355-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Joint Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet jointly with the Board of Directors of the Resolution Trust Corporation in open session at 2:00 p.m. on Tuesday, June 4, 1991, to consider the following matter:

Statement of Policy Regarding the Payment of State and Local Property Taxes.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Deputy Executive Secretary of the Corporation, at (202) 898-6757.

Dated: May 30, 1991.

Federal Deposit Insurance Corporation.

Robert E. Feldman,
Deputy Executive Secretary.

[FR Doc. 91-13346 Filed 6-3-91; 12:02 pm]

BILLING CODE 6714-0-M

FEDERAL HOUSING FINANCE BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 56 FR 22198, May 14, 1991.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., Wednesday May 22, 1991.

STATUS: Closed.

CHANGES IN THE MEETING: Addition of the following closed items to the meeting:

- The designation of elected directors' seats in each of the twelve Bank Districts.
- The Housing Finance Directorate Report.
- The Deloitte & Touche contract for audit of the Bank System in 1989.
- The meaning of the term "prior year" as used in 12 U.S.C. § 1441b(f)(2)(C).

CONTACT PERSON FOR MORE

INFORMATION: Elaine Baker, Executive Secretary to the Board, (202) 408-2837.

J. Stephen Britt,

Executive Director.

[FR Doc. 91-13337 Filed 6-3-91; 10:32 am]

BILLING CODE 6725-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Thursday, June 6, 1991.

PLACE: Federal Trade Commission Building, Room 532, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

STATUS: Parts of this meeting, will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in Coca-Cola Company, Docket 9207.

Portions Closed to the Public:

(2) Executive Session to follow Oral Argument in Coca-Cola Company, Docket 9207.

CONTACT PERSON FOR MORE

INFORMATION: Bonnie Jansen, Office of Public Affairs: (202) 326-2161, Recorded Message: (202) 326-2711.

Donald S. Clark,

Secretary.

[FR Doc. 91-13393 Filed 6-3-91; 1:51 pm]

BILLING CODE 6750-01-M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 9:30 a.m., Tuesday, June 11, 1991.

PLACE: Filene Board Room, 7th Floor, 1776 G Street NW., Washington, DC 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meetings.
2. Administrative Actions under Section 201 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9) (A)(ii), and (9)(B).
3. NCUA Delegations of Authority. Closed pursuant to exemption (2).
4. Midsession Budget Review. Closed pursuant to exemptions (2) and (9)(B).

FOR FURTHER INFORMATION CONTACT:

Becky Baker, Secretary of the Board,
Telephone (202) 682-9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 91-13381 Filed 6-3-91; 12:15 pm]

BILLING CODE 7535-01-M

**NATIONAL CREDIT UNION
ADMINISTRATION**

Notice of Meeting

TIME AND DATE: 10:00 a.m., Friday, June 14, 1991.

PLACE: Holiday Inn Madison West,
Superior Room, 1313 John Q. Hammons
Drive, Middleton, Wisconsin 53562, (608)
831-2000.

STATUS: Open.

BOARD BRIEFINGS:

1. Economic Commentary.
2. Central Liquidity Facility Report and
Report on CLF Lending Rate.
3. Insurance Fund Report.
4. Long Range Plan Progress Report.
5. Legislative Update.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open
Meeting.

FOR MORE INFORMATION CONTACT: Becky
Baker, Secretary of the Board,
Telephone (202) 682-9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 91-13382 Filed 6-3-91; 12:15 pm]

BILLING CODE 7535-01-M

Corrections

Federal Register

Vol. 56, No. 108

Wednesday, June 5, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 56

[Docket No. PY-91-001]

RIN 0581-AA19

Increase in Fees and Charges for Egg Products Inspection and Egg, Poultry, and Rabbit Grading

Correction

In rule document 91-10070 beginning on page 19542, in the issue of Monday, April 29, 1991, make the following correction:

§ 56.52 [Corrected]

On page 19543, in the third column, in § 56.52, in the first line of the heading, "performance" should read "performed".

BILLING CODE 1505-01-D

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Labeling Requirements for Art Materials and Other Products Subject to the FHSA Presenting Chronic Hazards; Guidelines for Determining Chronic Toxicity; Supplemental Definition of "Toxic"

Correction

In proposed rule document 91-8809 beginning on page 15672 in the issue of Wednesday, April 17, 1991, make the following corrections:

The word "casual" should read "causal" in the following places:

1. On page 15675, in the 1st column, in the 1st complete paragraph, in the 17th line.

2. On page 15676, in the first column, (a) in the second complete paragraph, in the first line; (b) in the paragraph designated "i", in the fifth line; (c) in the paragraph designated "ii", in the third and fifth lines; and (d) in the paragraph designated "iii", in the fifth line.

3. On page 15683, in the third column, in the paragraph designated "a." in the third line from the end.

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 90-313; FCC 91-116]

Common Carriers; Operator Service Providers

Correction

In rule document 91-9349 beginning on page 18519, in the issue of Tuesday, April 23, 1991, make the following correction:

§ 64.708 [Corrected]

On page 18524, in the second column, in § 64.708(h), in the next to last line, after "using a" insert "provider of".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-91-4212-24; N-44642]

Realty Actions; Airport Lease Application; Nevada

Correction

In notice document 91-7976 appearing on page 14120, in the issue of Friday, April 5, 1991, in the third column, in the land description, under "T. 19 S., R. 60 E.," the second line of sec. 17 should

read "E½SW¼SW¼, NW¼SW¼S W¼, N½SE¼".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 24

[T.D. 91-33]

Customs Regulations Amendments Relating to User Fees

Correction

In rule document 91-8789 beginning on page 15036 in the issue of Monday, April 15, 1991, make the following corrections:

1. On page 15037, in the first column, under **Background**, in the first paragraph, in the tenth line, "10 U.S.C." should read "19 U.S.C."

§ 24.17 [Corrected]

2. On page 15038, in the third column, in § 24.17(a)(12), in the third line "purposes" should read "purpose".

§ 24.23 [Corrected]

3. On page 15039, in the first column, in § 24.23(a)(3), in the fifth line "solely" should read "solely", and in the seventh line "consignment" should read "consignment".

4. On the same page, in the second column, in § 24.23(a)(5), in the last line, "proceeding", should read "preceding".

5. On the same page, in the same column, in § 24.23(b)(1)(i)(B), in the fifth line, "resepctively" should read "respectively".

BILLING CODE 1505-01-D

Get it first

Wednesday
June 5, 1991

Part II

Environmental Protection Agency

40 CFR Part 86

**Control of Air Pollution From New Motor
Vehicles and New Motor Vehicle Engines:
Gaseous and Particulate Emission
Regulations for 1994 and Later Model
Year Light-Duty Vehicles and Light-Duty
Trucks; Final Rule**

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 86**

[FRL-3906-2]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Gaseous and Particulate Emission Regulations for 1994 and Later Model Year Light-Duty Vehicles and Light-Duty Trucks; Final Rule**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This final rule establishes new gaseous and particulate tailpipe emission standards, referred to as the Tier 1 standards, for use in certifying new light-duty vehicles and light-duty trucks. Included are new standards for currently regulated pollutants (carbon monoxide, nitrogen oxides, and particulate matter), as well as the addition of hydrocarbon standards determined on a non-methane basis. In general, the new standards are functions of vehicle class, weight class, engine cycle (diesel or Otto), fuel, and useful life. New intermediate and full useful life levels, as well as new weight classes are defined. Both petroleum and methanol-fueled vehicles are affected by the rule. The new standards are implemented in phases, beginning with the 1994 model year.

In addition, for the first time, separate in-use tailpipe emission standards and useful life levels are created for light-duty vehicles and light-duty trucks. Many aspects of the Tier 1 certification standards apply to the new in-use standards as well, including a phase-in schedule beginning with the 1994 model year, new weight class definitions, and promulgation of both intermediate- and full-life standards. Both the Tier 1 and in-use standards are by and large mandated by the Clean Air Act Amendments of 1990, and EPA is afforded no discretion in the setting of these standards. Accompanying the Tier 1 and in-use standards are a limited number of regulations amending the measurement techniques associated with the emission standards.

EFFECTIVE DATE: This final rule is effective on July 5, 1991.

ADDRESSES: Materials relevant to this final rule are contained in EPA Air Docket LE-131, Attention: Docket No. A-90-43, located at the Air Docket Section, U.S. Environmental Protection Agency, Room M-1500, 401 M Street SW., Washington, DC 20460 telephone (202) 382-7548. The docket may be

inspected between the hours of 8:30 a.m. to 12 noon and from 1:30 to 3:30 p.m. weekdays. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT:

James A. McCargar, Certification Division, U.S. Environmental Protection Agency, Motor Vehicle Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Telephone (313) 668-4244.

SUPPLEMENTARY INFORMATION:**I. Table of Contents**

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II. Introduction

The Clean Air Act Amendments of 1990 (hereafter referred to as "the Amendments") were signed into law by the President on November 15, 1990, marking the first significant alteration of this benchmark legislation since 1977. A cornerstone of the Amendments was a set of revisions to the Federal Motor Vehicle Control Program, including revised certification tailpipe emission standards for all light-duty vehicles (LDVs) and light-duty trucks (LDTs). These new standards, commonly referred to as the Tier 1 standards, were prescribed in section 203 of the Amendments, which added new sections 202(g) and 202(h) to the Clean Air Act ("CAA" or "the Act"). The Tier 1 requirements were required to be phased in beginning with the 1994 model year. Section 203(d) of the Amendments called upon the Environmental

Protection Agency (EPA, or the Agency) to promulgate the new standards and the "measurement techniques on which such standards are based" within 180 days of enactment of the Amendments.

Most of the Tier 1 standards themselves are explicitly prescribed in the Amendments. Nevertheless, upon review of the final language of the Amendments, the Agency determined that its statutory obligations could not be met by simply promulgating the Tier 1 standards and procedures directly in a final rule. Certain issues, notably the methods for determining compliance with the phase-in of the standards, enforcement based on noncompliance with the phase-in, and the choice of measurement techniques for certain newly-regulated pollutants, promised to involve sufficient EPA discretion to justify an Agency proposal and opportunity for public comment before development and promulgation of a final Tier 1 rule.

The need for new measurement technique regulations was apparent in two cases: Non-methane hydrocarbon (NMHC) measurement for all light-duty vehicles and particulate measurement for Otto-cycle vehicles and light trucks. Agency regulations were in place for the remaining pollutants and standards; Section 203(d) of the Amendments did not require EPA to promulgate new measurement techniques in such cases.

In the course of developing a Tier 1 Notice of Proposed Rulemaking (NPRM), the advantage of coupling one closely related requirement to the Tier 1 rule became clear. Section 210 of the Amendments modified section 207(c) of the Act by establishing new tailpipe emission standards for LDVs and LDTs for purposes of determining in-use compliance and liability for recall. Although the statute itself sufficed to implement these new in-use requirements, they are closely related to the Tier 1 certification standards; concurrent promulgation promised to clarify the rights and obligations of the regulated community in certification as well as in-use.

The NPRM proposing the Tier 1 regulations was published in the Federal Register on March 7, 1991 (56 FR 9754). The notice integrated the Tier 1 requirements of the Amendments into the structure of EPA's existing regulations and outlined the issues of potential interest to commenters. A public hearing was held at the Agency's Motor Vehicle Emission Laboratory in Ann Arbor, Michigan, on March 26, 1991, where oral and written statements in response to the NPRM were submitted. Seventeen individuals or organizations

contributed comments to the docket, either during the public hearing or during the ensuing comment period. Comments were accepted to the docket for 30 days following the public hearing, through April 25, 1991.

The two following sections of this preamble describe the approaches that have been adopted in the final rule (section III) and the consideration of public comment that led to those approaches (section IV). The final sections of the preamble describe the economic, environmental, and cost-benefit impacts of the rule, and certain administrative requirements.

III. Description of the Action

A. Certification Standards

The new light-duty tailpipe certification standards promulgated in today's action are taken explicitly from the Amendments. As mentioned previously, promulgation of the standards themselves within 180 days was required by section 203 of the Amendments.

The Agency has continued the conventions brought forward in the NPRM for the naming of the various categories of emission standards. Thus, consistent with common usage during Congressional action on the Amendments, EPA uses the term "Tier 1" to refer to the new light-duty certification standards and useful life levels chosen by Congress for implementation beginning in the 1994 model year. The new term "Tier 0" refers generally to the light-duty tailpipe standards and associated useful life levels currently in place.

Congress prescribed several determinants of the Tier 1 emission standards to be applied to a given vehicle. Among them are the vehicle type (LDV or LDT), weight, engine cycle (Otto or diesel), motor fuel, and vehicle useful life. In addition, the new standards are phased in beginning with the 1994 model year; that is, minimum percentages of vehicles of a given vehicle type in a given model year must meet the Tier 1 standards, and the balance must meet the older Tier 0 standards.

The traditional separation of LDV and LDT requirements into distinct sections of the regulations is perpetuated in the Tier 1 rule. Given the complexity of the system for determining the appropriate emission standards for a vehicle, EPA has chosen for the first time to promulgate the certification emission standards in tabular form; thus, the LDV and LDT sections contain the tables of standards which are appropriate to the respective vehicle type.

Within the LDTs, the historical division according to Gross Vehicle Weight Rating (GVWR) is maintained, with LDTs up through 6000 lbs gross vehicle weight rating (GVWR) generally having distinct standards from LDTs of greater than 6000 lbs GVWR. Again for convenience, EPA is adopting the terms "light light-duty trucks" (LLDTs) and "heavy light-duty trucks" (HLDTs) to distinguish these two truck categories based on GVWR. Standards for the two light truck classes are contained in separate sets of tables.

For the most part, the standards applicable to the LLDTs correspond to the standards for LDVs, acknowledging the similar weights, engines, and emission controls shared by the vehicles and the lighter trucks.

Based on the requirements of the Amendments, each of the two light truck categories is further subdivided into two groups by weight, but the weight definitions differ. The LLDTs are split at 3750 lbs "loaded vehicle weight," or LVW, which maintains its current definition: curb weight plus 300 lbs. The trucks up through 3750 lbs LVW make up a subclass called light-duty-trucks-1, or LDT1. Those greater than 3750 lbs LVW but less than or equal to 6000 lbs GVWR are the subclass light-duty-trucks-2, or LDT2. Thus, the subclasses of LDT1 and LDT2, defined by loaded vehicle weight, make up the LLDT vehicle class.

The HLDTs are divided at 5750 lbs "adjusted loaded vehicle weight," or ALVW. Adjusted loaded vehicle weight is the average of curb weight and GVWR; in essentially all cases, ALVW will therefore exceed LVW. The HLDTs that are up through 5750 lbs ALVW are called light-duty-trucks-3, or LDT3. Those above 5750 lbs ALVW but less than or equal to 8500 lbs GVWR (the upper bound of the light-truck category) are light-duty-trucks-4, or LDT4.¹ Thus, the LDT3 and LDT4 subclasses, defined by adjusted loaded vehicle weight, together make up the HLDT vehicle class.

The Agency has also adopted the new term "equivalent test weight basis," or more simply, "test weight basis," in this rulemaking. This is the basis on which the equivalent test weight (ETW) is determined, for purposes of setting the

chassis dynamometer and loading the vehicle for testing. The test weight basis for both subclasses of LLDTs is loaded vehicle weight; the test weight basis for the two HLDT subclasses is adjusted loaded vehicle weight. This change is reflected in the table and associated text of the § 86.129-94, "Road load power test weight and inertia weight class determination."

Two other determinants of the tailpipe standards are motor fuel and engine cycle. Thus, for example, some standards might apply only to diesel-fueled LDTs or only to diesel-cycle LDVs.

The final significant determinant of the Tier 1 standards is vehicle useful life. Section 203 of the Amendments established new useful life levels both by amending section 202(d) of the Clean Air Act and by setting emission standards that apply at specific mileage intervals. In general, the Amendments prescribe both intermediate- and full-useful-life standards for each vehicle subclass. For LDVs and the LLDTs, the Tier 1 standards prescribed in sections 202(g) and 202(h) are established at the intermediate useful life of five years or 50,000 miles (5/50,000), whichever occurs first, and a full useful life of ten years or 100,000 miles (10/100,000), whichever occurs first. The analogous intermediate- and full-useful-life levels for the HLDTs are 5/50,000 and 11/120,000, respectively. Measured against the Tier 0 useful-life levels, the effect is to add a 10/100,000 useful life requirement for light-duty vehicles, a 5/50,000 requirement for all light-duty trucks, and to truncate the full-life level for light light-duty trucks, which is currently 11/120,000.

Changes in the useful lives for the various vehicle classes will dictate changes in EPA's durability program, but such changes were not required within the 180-day deadline for promulgation of the Tier 1 rule. Consequently, the Agency is pursuing a separate rulemaking to revise the light-duty durability procedures. A public workshop on this topic was held on January 30, 1991, as the first step in that process.²

For similar reasons, and as indicated in the NPRM, the continued availability of nonconformance penalties (NCPs) for heavy light-duty trucks certifying to Tier 1 standards will also be addressed separately. The Amendments include no requirements for NCPs for the heavy

¹ As noted in the Tier 1 NPRM, Section 233(a) of the Amendments (new section 216(8) of the Act) defines "test weight" as the average of the curb weight and GVWR. The Agency chose to use the term "adjusted loaded vehicle weight" in place of the "test weight" term from the Amendments, in order to prevent confusion with the term "equivalent test weight," which is used interchangeably with "test weight" throughout current regulations and EPA test procedures.

² The Notice of Public Workshop, with a detailed description of the issues for the durability rulemaking, may be found at 55 FR 52277 (December 21, 1990).

light-duty truck fleet. Determining the appropriateness of NCPs within the new statutory context, as well as considering for which standards NCPs might be offered and what penalty rates would be appropriate, was neither mandated nor practical within the six-month Tier 1 timeline.

The pollutants encompassed by the Tier 1 standards are hydrocarbons, carbon monoxide (CO), nitrogen oxides (NOx), and particulate matter (PM), all measured in grams per mile (g/mi). Hydrocarbons are designated as total hydrocarbons (THC) and non-methane hydrocarbons (NMHC) for gasoline and diesel-fueled engines, and are designated as organic material hydrocarbon equivalents (OMHCE) and organic material non-methane hydrocarbon equivalents (OMNMHCE) for methanol-fueled engines.

The complexity in the array of standards determined by the various factors cited above precludes a comprehensive itemization in this preamble. However, adoption of the Tier 1 standards brings with it several elements worthy of note. First, NMHC standards are established for all gasoline- and diesel-fueled LDVs and LDTs; numerically equivalent OMNMHCE standards are established for equivalent useful lives for methanol-fueled vehicles. As noted in the NPRM, the application of the Tier 1 standards to methanol-fueled vehicles was consistent with the approach taken in the Agency's 1989 promulgation of methanol vehicle standards comparable in stringency to those applicable to conventional vehicles. Second, the Tier 0 THC and OMHCE standards for these same vehicle groups are carried forward into Tier 1. The 50,000-mile CO standards are left intact for light-duty vehicles, but the full-life CO standards are made more stringent for all subclasses of light-duty trucks. The NOx standards are tightened for both vehicles and light trucks. The PM standards are tightened for diesel-cycle light-duty vehicles and light-duty trucks; particulate standards are also applied for the first time to Otto-cycle engines.

The phase-in of the Tier 1 CO, NOx, NMHC, and OMNMHCE standards begins in the 1994 model year, when at least 40 percent of a manufacturer's actual sales of LDVs and LLDTs must meet the new standards. In the 1995 model year, the minimum sales requirement for these pollutants and vehicle subgroups reaches 80 percent. For each of the model years 1994 and 1995, the final rule provides the option for manufacturers to combine the LDVs and LLDTs into a single pool for

determination of compliance with the phase-in percentages for the indicated pollutants. All LDVs and LLDTs must comply with the Tier 1 standards for these pollutants in model year 1996.

Particulate standards are applied to Otto-cycle vehicles for the first time, and they continue to apply to diesel-cycle vehicles. The Tier 1 particulate standards for LDVs phase in according to the same schedule as the Tier 1 NMHC, CO, and NOx standards. The three-year phase-in of the LLDT particulate standards, however, begins one year later, in model year 1995. Because the phase-in schedules of the particulate standards do not coincide, EPA does not permit the merging of the LDV and LLDT categories for determining compliance with the PM phase-in percentages. Thus, 1995 model year LDVs must comply with the Tier 1 PM standards at an 80 percent or better rate, while the LLDTs of the same model year must comply at a 40 percent or better rate.

Heavy light-duty trucks begin the phase-in of all pollutants in the 1996 model year at 50 percent of actual sales and reach 100 percent the following year.

Because the Agency anticipates no compliance problems for current-technology Otto-cycle vehicles and light trucks tested for particulate on current certification fuels, waiver provisions are included for that testing. A similar waiver option is provided for compliance with the THC standard, where the new NMHC standards are anticipated to be controlling. The technical justifications for these waivers are discussed in greater detail in the sections to follow.

Another Tier 1 standard of note is the NOx standard for diesel-fueled light-duty vehicles and LDTs. Beginning with the 1994 model year, the intermediate useful life NOx standard for these vehicles is 1.0 g/mi, rising to 1.25 g/mi at full useful life. The comparable standards for non-diesel vehicles at intermediate and full useful life are 0.4 and 0.6 g/mi, respectively.

Current EPA regulations do not permit averaging for light-duty vehicles or light-duty trucks, except for PM in the case of light-duty vehicles and PM and NOx for light-duty trucks. These provisions are unaltered for vehicles certifying to the Tier 0 standards. As stated in the NPRM, averaging is not permitted for any of the Tier 1 standards.

The standards of the Tier 1 regulations are written to apply to all manufacturers. However, the Agency recognizes that small volume manufacturers, with a limited number of

families as candidates for Tier 1 compliance, would have been granted little or no flexibility by the phase-in. In addition, the reliance of such manufacturers on the larger companies for vehicle components limits their available vehicle design options; thus, a strict requirement that each manufacturer meet the phase-in percentages could place the small volume manufacturers at a competitive disadvantage, potentially causing market distortions. Finally, because the proportion of annual U.S. sales attributable to small volume manufacturers is so small (less than 0.1%), EPA considers the air quality effects to be *de minimis*. Therefore, manufacturers that meet the EPA definition for small volume manufacturer status are exempted from the minimum phase-in percentages until the final year (that is, the full compliance year) of each phase-in. Small volume manufacturers include independent commercial importers as defined in 40 CFR part 85, subpart P.

The Tier 1 standards promulgated here are "all-altitude" standards. The one exception is THC (or OMHCE, in the methanol-fueled vehicle case). As mentioned above, the current THC and OMHCE standards are carried forward intact for vehicles certifying to the Tier 1 standards; thus the separate high- and low-altitude THC and OMHCE standards from current regulations apply to the Tier 1 vehicles as well. However, section 230(8)(C) of the Amendments generated a change to section 206(f) of the Act that requires model year 1995 and later light-duty trucks to comply with emission standards regardless of altitude. In effect, this eliminates separate LDT high altitude standards, as well as the performance adjustments previously required to enable light-duty trucks to meet the high altitude standards, beginning in model year 1995. Thus, the separate high- and low-altitude standards carried forward for Tier 1 vehicles are available only for model year 1994, and the high-altitude provisions of current regulations remain in place only for model year 1994 vehicles certifying to the Tier 0 standards. The so-called low-power exemptions available under the current regulations for vehicles certifying to all-altitude standards are carried forward to Tier 1 vehicles, as for example in § 86.094-9 (h) through (i).

B. In-Use Standards

The new tailpipe in-use standards in today's rule represent a change in the structure of standards applicable to

certified vehicles. In the past, the standards applied in-use were the standards to which vehicles had been certified. Section 210 of the Amendments, however, modified CAA section 207(c) by establishing separate in-use standards, which sometimes differ from certification standards, for NMHC, CO, and NOx.

The in-use standards promulgated here are those prescribed in section 210. Where no separate in-use standards were prescribed in the Amendments (as for total HC and PM), the general rule currently followed is observed and the certification standard will apply for in-use purposes as well as for certification purposes. This new structure of standards is accommodated in today's rule by the creation of the new subpart H. No longer will subpart A be the only place one must look in the regulations to find standards that apply to a given vehicle. For a discussion of the phase-in schedule and how minimum percentages are determined, see the later discussion entitled "Phase-in Enforcement."

The use of the terms "Tier 1" and "Tier 0" in the in-use context is consistent with their use for certification purposes, including the carryover of the THC standards from Tier 0 into Tier 1. In addition, the nature of the phase-in for in-use purposes has required a third term, Tier 1_i, to indicate those "interim" in-use Tier 1 standards which are phased-in beginning in model year 1994 and phased-out by model year 1998 and which have only one useful life period of 5 years/50,000 miles.

One other aspect of the in-use and certification tables of standards deserves mention. In several of the in-use tables, intermediate useful life standards that are numerically equivalent to the full-life in-use standards are provided, although these intermediate standards do not appear in the statute.³ They are included because conformance with the full-life in-use standards implies conformance at prior mileages; providing no number in the intermediate-life table would have implied that no nonconformance liability existed at the intermediate mileage. In the parallel points of the intermediate useful life certification tables, the only entries are those actually specified in the statute or those (such as THC) which carry forward from previous requirements. Full-life values are not "carried back" into the certification intermediate-life tables, lest they imply an obligation for the manufacturer to submit additional deterioration

calculations or determinations of conformity at the intermediate useful life mileage.

The basic divisions described previously for the certification standards apply to the in-use standards as well. Generally the Tier 1 standards are phased in for in-use purposes on a schedule delayed from the certification schedule by two years. However, one additional complexity exists only in the in-use standards: the interim standards referred to previously. These standards, which phase in on the same schedule as the Tier 1 standards for purposes of certification, are applicable for only 5 years/50,000 miles and are slightly higher numerically than the Tier 1 standards.

As previously explained, current EPA regulations which permit averaging of light-duty vehicles for particulate and light-duty trucks for particulate and NOx remain unaltered for vehicles certified to the Tier 0 standards. However, no averaging of families certified to either the Tier 1_i or the Tier 1 standards is allowed.

C. Measurement Techniques

As mentioned in the "Introduction", modifications to the current EPA measurement procedures in this final rule are limited to regulations that address the addition of the Tier 1 NMHC standards and the extension of PM standards to Otto-cycle vehicles and light trucks.

The NMHC measurement technique promulgated by EPA is the method currently employed by the California Air Resources Board for certification testing of vehicles destined for sale in California.⁴ The method relies on measurement of the methane fraction in the dilute exhaust sample, which is otherwise gathered for measurement of THC, CO, and NOx according to existing Federal test procedure regulations. NMHC is determined by subtracting the methane fraction from THC; total hydrocarbons are measured exactly as in the current Federal regulations, with a separate flame ionization detector (FID). The additional equipment required includes a gas chromatograph to remove the non-methane fraction and a FID to measure the remaining methane. The regulations are also adapted to include methane calibration gases and calibration

procedures and insertion of NMHC into the mass emission calculations.

The California NMHC techniques are currently in use by vehicle manufacturers seeking to introduce vehicles into commerce in California and by EPA in confirmatory testing of vehicles with California certification. Thus, the hardware and associated techniques are already available, and both EPA and the manufacturers have familiarity with applying those techniques to the emissions certification of light-duty vehicles and light-duty trucks.

Measurement of particulate emissions from Otto-cycle light-duty vehicles and light-duty trucks also necessitated the promulgation of measurement technique regulations. Although the authority to regulate such emissions was provided in section 202(a)(1) of the Clean Air Act, EPA has previously declined to do so because, based on the best available data, there was no basis for anticipating compliance problems from catalyst-equipped Otto-cycle vehicles. In 1980, EPA found the particulate emissions from a typical catalyst-equipped gasoline-fueled vehicle to be 0.008 g/mi, or about one fortieth the emissions of comparable diesel-fueled vehicles.⁵ Final particulate regulations were adopted by EPA in that year, applicable only to diesel light-duty vehicles and light-duty trucks, beginning with the 1982 model year. Diesel vehicles certified to the new standards were still projected to emit fifteen times the particulate of a typical catalyst-equipped gasoline vehicle.^{6, 7}

While no measurement technique regulations for Otto-cycle particulate emissions have previously been necessary, related techniques have existed since 1984 for diesel-cycle light-duty vehicles and light-duty trucks, groups that are subject to the same Tier 1 particulate standards as the Otto-cycle vehicles. These diesel-cycle particulate techniques are based upon measuring the particulate mass of a proportional sample of the exhaust, collected on a filter and corrected for the total system flow. The sampling system is based upon a constant volume sampler employing either a positive displacement pump or a critical flow venturi; in either case, the systems make

³ Thus, for example, the intermediate-life 0.98 g/mi diesel NOx standard from Table H94-15 matches the full-useful life standard in Table H94-16.

⁴ "California Non-Methane Hydrocarbon Test Procedures," State of California Air Resources Board (May 24, 1978, as amended May 15, 1990, and effective July 15, 1991). Available in the public docket for review. Proposals before the Board, but not yet adopted, would amend the California procedures somewhat. A discussion of this issue appears in the Public Participation section.

⁵ "Regulatory Analysis: Light-Duty Diesel Particulate Regulations," MSAPC, EPA, pp. 5, 37 (February 20, 1980).

⁶ "Standard for Emission of Particulate Regulation for Diesel-Fueled Light-Duty Vehicles and Light-Duty Trucks," 45 FR 14496 (March 5, 1980).

⁷ "Regulatory Analysis: Light-Duty Diesel Particulate Regulations," MSAPC, EPA, p. 17 (February 20, 1980).

use of a dilution tunnel and heat exchanger.

The Otto-cycle particulate measurement technique is accommodated by simple extensions of the diesel-cycle particulate regulations to Otto-cycle vehicles. Light-duty vehicles and light-duty trucks which are tested for particulate will therefore require a site equipped with a dilution tunnel, heat exchanger, and a constant volume sample based on either a positive displacement pump or a critical flow venturi. The particulate sampling is accomplished by drawing a proportional sample of the exhaust through a filter which is then subjected to precision weighing, as in the diesel-cycle case.

Nevertheless, the Agency continues to believe that Otto-cycle vehicles are not likely to exceed particulate standards when tested on existing certification test fuels. On that basis, and as noted above, a waiver provision is provided that may preclude the need for a manufacturer to perform PM testing on its Otto-cycle vehicles. If a waiver is granted, however, vehicles remain subject to the standard and, therefore, may be confirmatory tested at EPA's option.

D. Selective Enforcement Auditing

For purposes of Selective Enforcement Audit (SEA) testing, the Administrator is authorized to test new motor vehicles in order to determine whether vehicles being manufactured by a manufacturer do, in fact, conform with the regulations with respect to which a certificate of conformity was issued. Therefore, vehicles certified to meet Tier 1 standards are subject to such standards in an SEA.

The Agency has not determined its plans with regard to testing Otto-cycle engines for particulate emissions in the SEA program. However, EPA is charged with the responsibility to enforce the Act and believes it appropriate to have the right to include such testing in an SEA audit. The EPA recognizes that many current Otto cycle vehicles are inherently low in particulate output relative to the standards and that particulate testing such vehicles may therefore serve a limited purpose. Consequently, the final rule includes a minor revision to the certification regulations regarding selective enforcement audits to permit manufacturers to request the omission of particulate measurement during Otto cycle testing.

E. Recall

Section 86.094-2 of this rule establishes useful life periods for light-duty vehicles, light light-duty trucks, and heavy light-duty trucks. In the event that

the Administrator finds that any class or category of vehicles fails to conform to the applicable emission standards as determined by section 207(c), the manufacturer shall be required to remedy, at the manufacturer's expense, all properly maintained and used vehicles which experienced the nonconformity during their useful lives, regardless of the vehicle's age and mileage at the time of the remedy.

While the in-use useful life period is in many cases extended to 10 years/100,000 miles, no recall testing of vehicles will occur beyond 7 years/75,000 miles. Similarly, where the in-use useful life is extended to 11 years or 120,000 miles, recall testing will be limited to 7 years or 90,000 miles. These limitations on recall testing are required by sections 202(d)(1) and 207(c)(5-6) of the Act.

F. Phase-in Enforcement

This section provides a summary of how a manufacturer must comply with the phase-in schedules of the Tier 1 certification standards and final in-use standards. For purposes of discussion the Tier 1 and final in-use standards will be collectively referred to as phase-in standards. In addition, the interim in-use standards are phase-in standards in model years 1994 and 1995 and phase-out standards in model years 1996 and 1997.

Phase-in enforcement was the facet of the proposed rule which received the most comment. The phase-in enforcement policy encompasses a number of important elements, including the use of actual sales as the basis for phase-in compliance, the legitimacy of using production data in lieu of actual sales data, credit for vehicles certified for sale in California or states adopting California emission standards, and whether the certificates for entire engine families are to be voided for phase-in noncompliance. These issues are only of significance where the phase-in percentages are less than full compliance; once the compliance requirement reaches 100 percent, the additional reporting requirements regarding sales information, and enforcement with respect to the phase-in, disappear. The final rule, which combines elements of both the California enforcement program and EPA's NPRM, will result in added flexibility to the manufacturing industry in complying with the statutory requirements of the Act.

In reviewing the statute and the legislative history, EPA has concluded that Congressional intent was to base phase-in compliance on actual sales. In addition to a plain language reading of

the statute itself, this position is supported by the conference report which states that the phase-in schedules apply to a specified percentage of "vehicles sold."⁸

However, EPA has considered that the submittal of actual production data could be equivalent to submittal of actual sales data. Therefore, as stated in the NPRM, compliance with the phase-in of Tier 1 standards will be determined based upon actual sales, but the final rule allows a manufacturer to request permission to submit actual production data rather than actual sales data so long as the manufacturer can demonstrate to EPA that production and sales data are functionally equivalent. In order to use production data rather than actual sales, a manufacturer must petition the Agency by providing information demonstrating functional equivalence of production and sales data. Such petition shall be made to the Manufacturers Operations Division no later than 30 days following the end of the model year. Approval of the use of production data will be presumed unless otherwise notified by the Agency within 30 days of submittal. EPA retains the authority to determine actual sales data independently in order to confirm that there is no significant discrepancy between actual sales and production numbers.

The Agency proposed in the NPRM that vehicles sold in California and in states adopting the California program via section 177 of the Act (hereafter referred to as "section 177 states") be excluded from the calculation of a manufacturer's compliance with the Tier 1 phase-in requirements. Based upon comments received from several manufacturers, EPA has decided to allow the manufacturer to include California sales and sales to section 177 jurisdictions in determining compliance with the phase-in schedule. For EPA to make a compliance determination at the time of certification, a manufacturer must submit in the application for certification its projected sales in the United States for all relevant vehicle classes; this submission may include sales in California and section 177 states. Having chosen to include the California and section 177 vehicles in its applications for certification, the manufacturer will be evaluated for actual sales compliance on the same basis.

Since EPA has decided to permit vehicles sold in California and section

⁸ H.R. Rep. 101-952, Clean Air Act Amendments of 1990, Conf. Rep. to Accompany S. 1630, at 337 (Oct. 26, 1990).

177 states to count against the phase-in requirements, the location of the ultimate purchaser is no longer relevant for phase-in enforcement purposes. Therefore, EPA has decided to define actual sales as sales to dealers, distributors, fleet operators, brokers, or any other entity which comprises the point of first sale.

Based in part upon the comments received, EPA has decided to enforce the phase-in percentages on a per vehicle basis rather than voiding the certificate of conformity for engine family(ies) which cause the manufacturer to exceed the percentage limitations. Therefore, each vehicle certified to the phase-out standards but sold in excess of the allowed percentages will be viewed as a vehicle sold in violation of the terms in which the certificate of conformity was issued and, therefore, as a vehicle which is not covered by a certificate of conformity for purposes of the Act.

While the existence of a violation will depend solely on whether the manufacturer achieves the applicable phase-in percentage, the Agency reserves the right to exercise enforcement discretion in the assessment of civil penalties for that violation. The EPA recognizes that a manufacturer, notwithstanding its best efforts, may fail to achieve the required phase-in percentage due to circumstances beyond its control (e.g., a fire at a plant that produces Tier 1 vehicles). Thus, in seeking civil penalties for a violation, EPA will exercise its enforcement discretion according to the circumstances surrounding a violation. In practice, EPA does not intend to bring an enforcement action against a manufacturer if both of the following circumstances exist: the shortfall in actual sales from the required percentage is less than or equal to ten percent of the required phase-in percentage, and there is no indication that the shortfall resulted from bad faith on the part of the manufacturer.

For example, when a 40 percent phase-in requirement applies, ten percent of the phase-in requirement would be four percent. Thus, the lower bound for the first criterion would be 36 percent (40 percent less four percent). In this case, EPA does not intend to bring an enforcement action against a manufacturer if the manufacturer obtained Tier 1 sales of 36 percent during the model year, and there was no indication that any shortfall was a result of bad faith. By a similar computation for a case where the phase-in requirement is 80 percent, EPA would not initiate enforcement action if the

Tier 1 sales were 72 percent or greater and there was no indication that the shortfall was a result of bad faith on the part of the manufacturer. As mentioned above, application of this enforcement policy applies only to cases where the phase-in levels are below 100 percent; in the full-compliance years, all vehicles must comply with the applicable standards.

If the Agency determines that an enforcement action is appropriate, EPA would, of course, have some discretion in choosing the appropriate penalties. Such penalties would be assessed on the basis of the deviation between the required phase-in percentage (for example, 40 or 80 percent) and the percentage of Tier 1 sales actually achieved. The Agency will consider mitigating factors such as the voluntary recall of vehicles certified to phase-out standards.

IV. Public Participation

A number of interested parties commented on EPA's March 7, 1991, NPRM. The comments include written submittals to the rulemaking docket and those presented at the March 26, 1991, public hearing, which was held in Ann Arbor, Michigan. The Agency has fully considered these comments in developing today's final rule.

The following section presents a brief synopsis of the comments received on the NPRM and the EPA responses to those comments. A separate and more detailed Summary and Analysis of Comments on the NPRM has been prepared, and is available in the public docket. The interested reader is referred to that document for a more complete discussion of the comments, including some of the minor concerns which, though evaluated, are not presented here.

A. Scope of the Rulemaking

Summary of the Comments

In overview, the motor vehicle manufacturers and their associations acknowledged the need for improving air quality, and noted that they support the Tier 1 standards in general. However, a common theme throughout manufacturer comments was that the EPA should conform closely to the requirements mandated in the 1990 Amendments and avoid the promulgation of additional, discretionary requirements. California's approach to a set of standards similar to Tier 1 was often cited as the model for the Amendments, and the manufacturers based many of their recommendations on their stated belief that Congressional

intent was to not deviate from that model in any significant way.

These general comments by the manufacturers served as the foundation for their comments on a range of specific issues. Most prominent among these were comments on implementation of particulate standards (PM) for Otto-cycle vehicles, retention of the total hydrocarbon (THC) standard, the basis for determining compliance with phase-in percentages, and the enforcement system to be implemented in cases of noncompliance with the phase-in requirements. Also addressed was the applicability of the Tier 1 phase-in requirements to small volume manufacturers. By and large, the manufacturers agreed on the suggested changes to the rule in these areas of concern.

With few exceptions, the remaining commenters tended to focus on a subset of the same issues that were raised by the manufacturers. Questions and comments from Rep. Dingell addressed aspects of the phase-in and the PM standard. Rep. Waxman also addressed phase-in issues, but added comments on the high altitude provisions and the implications of the Tier 1 rule for subsequent Tier 2 regulations. Comments from the American Gas Association and Natural Gas Vehicle Coalition (AGA/NGVC) focused on retention of the THC standard and the applicability of the NMHC standard to vehicles fueled with compressed natural gas (CNG). The California Air Resources Board (CARB) submitted information on the compliance and enforcement aspects of phase-in approaches in the California motor vehicle control program.

EPA Response to the Comments

In general, EPA agrees with commenters that this rulemaking should conform closely to Congressional intent and should limit the number of additional, discretionary requirements. However, the Agency disagrees in several instances with commenters' legal interpretation of the statutory language, as well as their reading of Congressional intent. Specifically, EPA believes that the statute requires continuation of the total HC standard as well as application of the PM standard to Otto-cycle vehicles, and that the legislative history supports this view of these provisions. The Agency has also determined that, while Congress indeed used the California Tier 1 program as a general model for the Federal requirements, it did not intend to follow the California program in each and every respect.

On the other hand, EPA has reconsidered its position on several discretionary issues based on comments received. These areas include the grouping of vehicles for the phase-in, implementation of the phase-in percentages with regard to small volume manufacturers, the basis for determining compliance with the phase-in and subsequent enforcement provisions in cases where the percentages are not met, and inclusion of vehicles sold as part of the California Tier 1 program in the Federal phase-in.

Finally, the final rule has been changed from that proposed to incorporate two sets of technical changes. The first involves deletion of standards for the 2004 model year. The second concerns high altitude provisions for 1995 and later model year light-duty trucks.

These issues are discussed in the following sections. As noted above, additional detail on these topics, as well as a discussion of several minor topics which do not warrant attention here, is provided in the Summary and Analysis of Comments available in the docket.

B. Particulate Standards Applied to Otto-Cycle Vehicles

Summary of the Proposal

The NPRM proposed for the first time to apply PM standards to Otto-cycle vehicles, including those fueled by gasoline or methanol. Agency legal staff determined that sections 202(g) and (h) of the revised Act do not permit EPA to limit the application of the Tier 1 PM standards to diesel-fueled vehicles. Analysis by technical staff indicated that current-technology Otto-cycle vehicles operating on existing certification fuels would pose no compliance problems under the new standards. On this basis, a waiver system was proposed in the NPRM, allowing manufacturers to demonstrate compliance with engineering analyses or test data. As a safeguard against currently unforeseen compliance problems, EPA reserved the right to perform confirmatory tests during certification and Selective Enforcement Audit (SEA) tests during production.

Summary of the Comments

Numerous manufacturers and MVMA commented that the application of particulate standards to Otto-cycle vehicles was wasteful and burdensome. Several of these commenters, including Rep. Dingell, disputed EPA's claim that it lacked discretion on promulgation of the Otto-cycle particulate standards and predicted no air quality benefit associated with the standards. A legal

analysis focused on an interpretation that the wording of the statute itself (section 202(g) of the revised Act) refers to the regulations currently in existence, which apply only to diesel vehicles. These commenters contended that the legislative history does not indicate Congress intended to expand the application of particulate standards beyond diesel-fueled vehicles.

Commenters on this issue supported EPA's judgment on the lack of a compliance threat from current vehicles tested on conventional certification fuels and, thus, concluded promulgation of the new PM standards was unnecessary. The MVMA and several manufacturers noted, however, that despite the testing waiver provision, they might nevertheless feel compelled to perform PM testing as a defense against potentially erroneous EPA confirmatory testing indicating failure of the standard. The lack of necessary testing facilities and the costs for constructing or upgrading sites to accommodate such testing were cited as unduly burdensome for the achieved benefit. One manufacturer commented that separate dilution tunnels would be necessary for diesel testing and gasoline/methanol testing, with a concomitant need for new testing facilities.

Some suggestions were made to reduce the testing burden in the event that the PM standards were retained for Otto-cycle vehicles. One manufacturer suggested modifications to the waiver provisions that would limit the reporting and testing requirements necessary to obtain a waiver by ruling out the need for new testing by every manufacturer, allowing a single waiver for a manufacturer's entire fleet, and providing for multi-year waivers. Another manufacturer suggested "market surveillance or periodic particulate surveys" as a mechanism to accomplish EPA monitoring of actual PM performance.

EPA Response to the Comments

The EPA disagrees with the comments regarding its ability to limit the Tier 1 PM standards to diesel-fueled vehicles. The Agency believes that the commenters' interpretation of the statute is erroneous. With respect to PM standards, neither section 202(g)(2), for LDVs and LLDTs, nor section 202(h), for HDLTs, indicates that the PM standards should be applied only to diesel-fueled vehicles. In contrast, other sections of title II expressly differentiate between gasoline and diesel-fueled vehicles (*see, e.g.,* sections 202(g)(1), 202(h), 202(k), and 207(c)(4)). Congress was clearly capable of stating that standards apply

only to diesel or to gasoline-fueled vehicles when it desired to do so, and the lack of any such specification with respect to PM standards leads to the conclusion that Congress did not intend to limit the applicability of PM standards to diesel-fueled vehicles.

The Agency believes that the waiver provision as included in the proposal adequately addresses concerns about an unnecessary PM testing burden in those cases where there is little actual risk of a compliance problem. It is EPA's intention and conclusion that a manufacturer should face no obligation to build new PM testing facilities, either at development sites or at manufacturing facilities, as long as it continues to believe no PM compliance problems exist for its Otto-cycle vehicles. In the limited cases where a manufacturer possesses not even a conventional diesel facility capable of use for Otto-cycle testing, contracted services could suffice to provide the minimal engineering data necessary to support a petition for waiver.

The Agency structured the confirmatory and SEA testing options not to scrutinize vehicles which it knows to have negligible chance of failure, but rather to protect its legitimate right to confirm or audit the performance of test vehicles when good judgment points to the need. Thus, the Agency has no specific plan on routinely testing a sample of Otto-cycle vehicles for PM, nor does it see the need for manufacturers to routinely perform such tests at this time. Thus, EPA projects no facility upgrade costs. On the other hand, if a manufacturer determines that there is sufficient cause for concern with one of its new designs to warrant construction of facilities or pursuit of significant testing, EPA believes it is likewise appropriate that the Agency shall have retained the right to perform confirmatory and SEA tests.

The EPA has considered the impact of back-to-back diesel and gasoline testing in a test cell equipped for PM measurement and finds that vehicle pass/fail decisions should be unaffected. Nevertheless, the Agency is willing to entertain suggestions for accuracy improvements in the PM test procedures as they apply to all vehicles.

The Agency finds it inappropriate to explicitly rule out the need for new testing by every manufacturer in support of requests for Otto-cycle PM waivers, since the manufacturers themselves are in the best position to judge the adequacy of their own data and supporting analysis, and thus the need for additional testing. Agency practice in the evaluation of current waivers clearly

allows the applicability of test data and engineering evaluations across a broad range of engine families. However, EPA will require the manufacturer to reapply for the waiver for each new certificate, if merely to state that the standard is addressed through the waiver option. Nevertheless, EPA believes the reporting burdens associated with the waiver are quite limited; thus, the Agency is adopting the Otto-cycle PM waiver option in parallel with existing waivers made available through section 86.090-23 of the current regulations.

C. Retention of Total Hydrocarbon Standards

Summary of the Proposal

Sections 202(g) and 202(h) of the Act require EPA to promulgate new Tier 1 non-methane hydrocarbon (NMHC) standards for LDVs and LDTs. The Tier 1 NPRM proposed these new standards to supplement, rather than replace, the existing total hydrocarbon (THC) standards. Agency legal staff concluded that Congress did not provide discretion for the Administrator to eliminate the THC standards in favor of the new standards.⁹

The Tier 1 NPRM also proposed organic material hydrocarbon equivalent (OMHCE) and organic material nonmethane hydrocarbon equivalent (OMNMHCE) standards applicable to methanol-fueled vehicles. Consistent with the approach in EPA's 1989 methanol rulemaking, the OMHCE and OMNMHCE methanol-vehicle standards were numerically equivalent to the THC and NMHC standards applicable to conventional petroleum-fueled vehicles.

Summary of the Comments

Several manufacturers, MVMA, and AGA/NGVC commented that retention of the THC standard was neither required by statute nor productive in air quality terms. The statutory argument was based on an alternative reading of the legislative history (primarily the committee report on the House-passed bill) and rejection of the Senate-passed language in conference. The MVMA contended, however, that there were some inconsistencies in the legislative history.

The air quality arguments of the commenters concluded that emissions from current vehicles run on conventional petroleum or methanol fuels would be limited by the new NMHC standards, not the old THC standards, and that vehicle design would likewise be driven by the NMHC

standard. It was noted, however, that this was not assured to be true for future vehicles. Several commenters also suggested that THC standards should be eliminated as a result of their effect on clean fuel vehicle standards.

Despite the attention given to this issue in comments and the public hearing, commenters indicated that the requirement was a nuisance rather than an extreme burden. Some manufacturers commented that the different useful lives applicable to the THC standard and the new Tier 1 standards could complicate durability demonstrations, particularly for alternative durability cycles (now under consideration by EPA in a separate rulemaking). To help alleviate the nuisance factor, Ford suggested that EPA could provide a waiver provision, whereby demonstration that vehicles met the 0.25 NMHC standards would be sufficient indication that they also met the 0.41 THC standard.

EPA Response to the Comments

Upon review of sections 202(g) and (h) of the revised Act, EPA continues to believe that it has no legal basis on which to eliminate the existing THC standards. The EPA is prohibited from doing so by section 202(b)(1)(C) of the Act, which states that "Any revised standard shall require a reduction of emissions from the standard that was previously applicable." Eliminating the THC standard would not comply with this requirement.

The Agency further believes that the commenters' interpretation of the legislative history is erroneous. Both the House and Senate committees indicated their intention to retain THC standards as well as impose the California NMHC standards; the House stated in its Committee Report (at page 298) that the existing THC standards were to be retained, while the Senate proposed tighter THC levels (see section 201(a) of the Senate Bill). The Agency believes rejection of the Senate approach by the Conference Committee was a rejection of the tighter THC levels, rather than the entire THC concept.

The EPA has drawn no conclusions on the specific hydrocarbon standards that might be applied in future rulemakings to vehicles using alternative fuels. At this writing, the Agency anticipates that it will soon publish an NPRM regarding vehicles fueled by compressed natural gas (CNG). Issues surrounding the setting of standards for CNG vehicles will be addressed in that rulemaking. Furthermore, the applicability of the THC standard to clean fuel vehicles will be addressed as part of the implementation of the clean fuels

programs under Title II, Part C, of the amended Act.

Agency technical staff and commenters agree that the new NMHC standards, not the THC standards, will control vehicle design where conventional petroleum or methanol fuels are employed. The measurement technique finalized by EPA for NMHC requires measurement of THC as part of the procedure; therefore, the increased burden of the THC standard is mostly the extra reporting requirement for THC in the certification application and the possible impact on durability determinations. Although the Agency views these burdens as slight, the suggestion by Ford will nonetheless be pursued. Thus, for those vehicles where the manufacturer concludes that the NMHC standard is controlling, a waiver option akin to that proposed for the PM standard will be incorporated into § 86.094-23 of the final rule.

D. High Altitude Requirements

Summary of the Proposal

The absence of separate high-altitude standards in the Amendments indicated that Congress did not intend separate high-altitude corollaries of the Tier 1 standards. Thus, for those pollutants specifically mandated for revision under the Tier 1 provisions, the NPRM eliminated any distinct high-altitude standards for Tier 1 LDVs and LDTs. Separate high altitude standards and associated procedures already in existence for pollutants not revised by the Tier 1 provisions (specifically, THC and idle CO for light-duty trucks) remained in place.

Summary of the Comments

Written comments from Rep. Waxman indicated that a technical amendment to section 206(f) of the Clean Air Act, from section 230(8)(C) of the Amendments, required all model year 1995 and later LDTs to meet all certification standards regardless of altitude. His comments indicated that this provision was apparently not incorporated into the proposal.

EPA Response to the Comments

Due to an oversight, the technical amendment cited by Rep. Waxman was indeed overlooked in the NPRM. Since the requirements of the clause are straightforward, appropriate revisions have been made in the final rule. These revisions comprise the deletion of all separate high-altitude standards for model year 1995 and later LDTs, and the elimination of provisions allowing performance adjustments; thus, LDTs and LDVs are treated equivalently for

⁹ See Note 6 at 56 FR 9756.

high altitude locations, beginning in model year 1995.

For manufacturers who might wish to comply in advance with the LDT all-altitude requirement on Tier 0 vehicles, the 1995 statutory requirement cited above is made optional for the 1994 model year. This precludes the need to republish the entire standards section for model year 1995. However, the mandatory "sunsetting" of the performance adjustment regulations for light trucks in 1995 has prompted republishing of some sections (85.095-14, 85.095-24, 85.095-26, 85.095-30, and 85.095-35) in the final rule.

E. Phase-in Bins

Summary of the Proposal

The Tier 1 NPRM proposed to group vehicles into three categories for purposes of determining compliance with the minimum percentages of the phase-in schedule. The categories were (1) LDVs; (2) light LDTs (LDTs with gross vehicle weight ratings or GVWR up through 6000 lb, referred to as LLDTs); and (3) heavy LDTs (LDTs with GVWR between 6000 lb and 8500 lb, referred to as HLDTs). Compliance with the phase-in schedule would be determined separately for each of the three bins.

Summary of the Comments

A number of manufacturers commented in response to EPA's request in the NPRM for comments on this topic, all supporting the use of two, rather than three, phase-in bins. In such a scheme, the LDVs and light LDTs would be combined for compliance purposes into one bin. Commenters voiced the opinion that the California program was the model for the Tier 1 provisions, and that program permits the combining of the LDV and LLDT groups during the phase-in. It was also noted that the two-group approach is more consistent with the organization of the Amendments.

Several manufacturers also cited a potential competitive disadvantage for small manufacturers under the three-bin approach; with smaller numbers of families, such manufacturers would have reduced flexibility in meeting the minimum requirements. Finally, one commenter suggested that the differential air quality impact between the proposed and California approaches was probably too small to justify the higher costs of three bins.

EPA Response to the Comments

As noted in the NPRM preamble, the Agency believed several options existed for separating LDVs and LDTs into bins for determining phase-in compliance,

each of which could meet the statutory requirements. The Agency agrees with commenters that the two-bin approach allows greater flexibility in meeting the phase-in requirements, and is more consistent with the structure of the Amendments, as well as with the California program. The Agency also believes that the environmental effect of moving from three bins to two is minimal. In the final rule, EPA will therefore modify §§ 86.094-8 and 86.094-9 to provide an option for manufacturers to combine LDVs with LLDTs for purposes of meeting the Tier 1 phase-in requirements. The in-use regulations of subpart H (§§ 86.708-94 and 86.709-94) are similarly modified.

Congress provided that the phase-in of the Tier 1 PM standards for LDVs would begin in model year 1994, but the comparable phase-in for LDTs begins in model year 1995, resulting in different phase-in percentages for the two classes during a given model year. Therefore, there will be no option to combine LDVs and LLDTs for PM phase-in compliance.

F. Exclusion of California and Section 177 States

Summary of the Proposal

As mentioned in section II above, the Agency proposed in the NPRM that vehicles sold in California and in section 177 states be excluded from the calculation of a manufacturer's compliance with the Tier 1 phase-in requirements. The justification was an Agency judgment that mandatory compliance with higher phase-in percentages in California and section 177 states in model years 1994 and 1995 could lead to proportionately fewer Tier 1 vehicles sold in the remaining states, with the consequent disproportionate benefit across the nation.

Summary of the Comments

The MVMA and several manufacturers raised a number of objections to the approach in the NPRM. First, MVMA and some manufacturers argued that the Amendments did not require exclusion of California and section 177 vehicles, and the Agency had unnecessarily opted for increased stringency in the proposal. Second, some commenters stated that the added burden of separately counting vehicles for the creditable and non-creditable vehicle fleets was not justified by the benefits. Third, they commented that the two-year minimum leadtime allowed by states adopting the California program through section 177 is not sufficient for manufacturers to revise sales projections for the remaining states and execute a compliance plan. Fourth, one

manufacturer showed that the approach proposed in the NPRM would lead to minimum phase-in compliance levels that exceeded 40 percent on a national basis in the first year of the phase-in period, and that this constituted a requirement greater than the mandated minimum levels. Finally, the manufacturers argued that since the Federal standards were closely modeled after the California standards, the latter standards allow essentially equivalent protection of the public health and welfare, and thus should be creditable toward the Federal phase-in.

EPA Response to the Comments

The Agency agrees that the California motor vehicle control program was the basis for significant portions of the Federal Tier 1 program adopted by Congress in the 1990 Amendments. The phase-in schedule for the California analogues of the Tier 1 standards generally begins one year earlier.

Only California and New York are clear candidates for exclusion from the Tier 1 compliance calculation under the system proposed in the NPRM.¹⁰ The Agency has analyzed the possible impact of counting the California and section 177 vehicles from these states towards phase-in compliance, and believes those impacts to be insignificant in the context of the overall phase-in period and the benefits to be gained from the Tier 1 provisions.

In response to the comments of the public, EPA agrees that the Amendments did not explicitly exclude California and section 177 vehicles from being creditable towards Tier 1 compliance, and that the Act permits such vehicles (in the event they comply with the Tier 1 standards) to be counted toward compliance with the Tier 1 phase-in requirements. The Agency also agrees with the comments that the NPRM approach leads to 50-state compliance requirements that exceed the phase-in percentages in the statute. The Agency is less persuaded by arguments based on increases in the tracking burden. To the extent that other states adopt the California standards, manufacturers would already be forced by those requirements to project sales of vehicles in the section 177 states and to

¹⁰ To date, New York is the only state which has adopted California vehicle emission standards under section 177. The New York Department of Environmental Conservation (NYDEC) issued final regulations adopting the California standards in November 1990. In January 1991, however, an industry coalition filed suit against NYDEC in the New York Supreme Court to overturn these standards on various procedural and substantive grounds. This suit is pending.

submit explanations for deviations in actual sales data from the required phase-in levels.

On balance, the Agency finds the strength of comment on the statutory intent and the limited benefit of the NPRM approach sufficient to modify that position in the final rule. In the final rule, manufacturers may credit towards phase-in compliance all vehicles in the applicable model year that meet certain standards for that model year referred to in title 13, "California Code of Regulations, Section 1960.1, and the incorporated California Exhaust Emission Standards and Test Procedures for 1983 and Subsequent Model Passenger Cars, Light-duty Trucks, and Medium-Duty Vehicles." The relevant standards from that source are those designated as phase-in standards for certain pollutants (including NMHC) and which were first applied in the 1993 model year, as well as those standards for all remaining pollutants (including NOx) that require compliance at the 100 percent level. These standards are numerically equivalent to the Federal Tier 1 standards. The intent is therefore that vehicles complying with the California equivalents of the Tier 1 standards will be creditable towards the Tier 1 phase-in minimums. This implies, however, that all vehicles, including those not built to the Tier 1 standards or the California equivalents, regardless of the jurisdiction of sale, must be included in the overall vehicle count used as the denominator for calculating compliance with the phase-in percentages.

G. Enforcement of Phase-in Based on Actual Sales

Summary of the Proposal

The Agency concluded in reviewing the legislative history that Congressional intent was to base phase-in compliance on actual sales. Thus, the proposal required an initial determination of compliance at the time of vehicle certification based on submission of projected sales data, but followed this with a requirement for submission of actual sales data. The proposed regulations state that the certificates for engine families determined to cause a violation of the required phase-in percentages "may be deemed void." The burden of proof fell to the manufacturer to demonstrate to the Administrator's satisfaction that the conditions of the certificate had either been "satisfied or excused."

Summary of the Comments

This was the most commented-upon element of the NPRM. Rep. Waxman

commented that the Agency's regulations must rely on actual sales and could not permit deviations from the required implementation schedule. However, several manufacturers and their associations commented to the contrary. Their comments made two arguments. They disputed EPA's interpretation of Congressional intent regarding actual sales, arguing instead that the question is discretionary, and that Congress intended to follow California's regulations, which refer to projected sales.

Further, they argued that reliance on actual sales makes the manufacturers unfairly susceptible to fluctuations in the market that are beyond their control. Several commenters stated that the threatened sanction of a nullified certificate in case of erroneous projections was an extreme enforcement mechanism, and suggested that EPA adopt other enforcement mechanisms.

In 21 March 1991 testimony before the House Subcommittee on Health and the Environment, and in correspondence with the Administrator authored the following day, Rep. Dingell generally supported and cited vehicle manufacturer arguments on this issue.

CARB submitted a letter to EPA describing its policies regarding the enforcement of the California phase-in requirements. Attached to that letter were two documents (Manufacturer's Advisory Correspondence, or MACs) that had been sent to manufacturers notifying them of CARB's enforcement policies. According to the letter and the attached MACs, CARB's enforcement policy combines elements of both projected sales and actual sales.

EPA Response to the Comments

EPA believes that the plain language of sections 202(g) and 202(h) requires the Agency to determine compliance with the phase-in requirements on the basis of actual sales. EPA also believes that that reading of the Act is confirmed by the legislative history. Consequently, in the final rule EPA will determine compliance on the basis of actual sales, not projected sales. EPA believes, however, that it does have discretion to modify its proposal concerning the method of enforcement of the phase-in requirements (i.e., by voiding certificates or through some other means).

The starting point of any analysis of the actual sales issue is the statutory language itself. Sections 202(g) and 202(h) state that "emissions from a percentage of each manufacturer's sales volume" shall comply with the specified percentages. EPA believes that the plain meaning of the statutory language requires that compliance with the phase-

in percentages be determined on the basis of actual sales. The phrase "sales volume" means a volume of sales, which has the connotation of a volume of completed sales transactions. Thus, absent an adjective such as "projected," the phrase "sales volume" means actual sales.

Congress explicitly used the term "projected sales" in another provision of Title II of the Clean Air Act. That provision, Section 206(a)(1), concerns EPA's testing authority and limits the testing requirements for manufacturers whose "projected sales" will not exceed 300 in a model year. Clearly, Congress knew how to use the term "projected sales" when it desired to do so.

The conclusion that the statutory phrase "sales volume" does not extend to projected sales is confirmed by the Joint Explanatory Statement of the Committee of Conference, which states the Tier 1 standards phase in "beginning with 40 percent of the vehicles sold in 1994 and increasing to 100 percent of vehicles sold in 1998." (H.R. Rep. 101-952, Clean Air Act Amendments of 1990, Conf. Rep. to Accompany S. 1630, at 337 (Oct. 26, 1990).) The phrase "vehicles sold" clearly indicates that the phase-in percentages are to be applied to actual sales, not some projection of sales.

The House Committee Report also supports this reading of the term "sales volume." In explaining the language in the House Committee Bill, which is identical to the language in the Amendments with respect to this issue, the House Committee Report (at page 298) described the Tier 1 phase-in schedule in terms of percentages of each automaker's "passenger cars and light-duty trucks." This again confirms that sales volume should be read as actual sales because reliance solely on a projection could lead to a situation under which less than that percentage of the manufacturer's vehicles in fact met the Tier 1 standards.

Many commenters contended that EPA should follow California's approach to phase-in compliance, which they said was based on the concept of good faith sales projections, because Congress based the Tier 1 standards and their implementation on California's program. EPA notes that the House Committee Report does state that "They essentially adopt the so-called 'California' standards." (House Comm. Rep. at p. 298.) The Committee Report does not state that the bill adopted the California procedures, however.

Moreover, the very general statement regarding the adoption of the California standards itself contains nothing on its face inconsistent with the plain

statutory language. The "essentially adopt" language can be read as merely descriptive: Congress adopted a program based on, or conforming in its general outlines to, the California program. Furthermore, the Tier 1 phase-in schedule begins one year later than California's, thereby indicating that while the standards themselves may be virtually identical, their implementation is not. Significantly, in the clean-fuels provisions in Part C of Title II, where Congress also based standards on the standards adopted by California, Congress incorporated a provision expressly directing EPA to follow California's approach to the administration and enforcement of the standards (CAA Section 244). The absence of such a provision in connection with the Tier 1 provisions confirms that Congress did not intend for EPA to be tied strictly to California's implementation procedures in the context of Tier 1.

EPA also notes that while California does rely on the concept of "good faith" sales projections, California has also issued an enforcement policy stating that civil penalties can be assessed in situations where a manufacturer's actual sales fall short of the required phase-in percentages. Consequently, it appears that California itself does not rely solely on the concept of good faith sales projections.

With respect to the issue of EPA's proposed enforcement mechanism, commenters contended that EPA does not have the authority to void certificates of conformity on an engine family basis with respect to the engine families that caused the manufacturer to exceed the percentage limitations set forth in the phase-in schedule. EPA disagrees. Such voiding is consistent with other enforcement mechanisms utilized under Title II of the Clean Air Act, such as the remedies for banking, trading and averaging programs and for violations of the recordkeeping and reporting requirements. EPA believes that such actions are authorized where, pursuant to EPA's authority under Section 206(a) of the Act to condition certificates upon such terms as the Administrator "may prescribe", EPA has placed a condition in the certificate.

Nevertheless, EPA has decided to modify the approach proposed in the NPRM to narrow its scope and to eliminate any issues attendant to the voiding of certificates. The approach contained in the final rule will still be based on the concept of conditioning the certificates of conformity upon compliance with the phase-in percentages on the basis of actual sales.

If a manufacturer fails to meet this condition, however, the vehicles causing the violation will be considered not covered by the certificate applicable to the engine family. The EPA will not void the certificate. This provision differs from the proposed rule in that penalties may be assessed on an individual vehicle basis rather than only on an engine family basis. This approach is also more consistent with California's enforcement approach than was EPA's NPRM. The sale of vehicles not covered by a certificate is a violation under section 203(a) of the Act. Civil penalties in the amount of up to 25,000 dollars per vehicle are possible under section 205 of the Act. As noted earlier, EPA has enforcement discretion with respect to its enforcement activities.

H. Sales Reporting Requirements

Summary of the Proposal

The NPRM proposed to determine phase-in compliance based on sales to the ultimate purchaser, but also addressed vehicles still in the sales "chain" as of the deadline for reporting. Selection of this policy by the Agency was based in part on the parallel decision to isolate California and section 177 states from the compliance calculation. Thus, the use of actual sales to the ultimate purchaser achieved, to the best extent deemed reasonable, assurances that the phase-in compliance calculation would reflect the actual distribution of vehicles in the field, with the proportional accrual of clean air benefits.

Summary of the Comments

The MVMA and domestic manufacturers commented that reliance on actual sales to the ultimate purchaser would require implementation of entirely new tracking systems, extending the manufacturer's interest in post-dealer events to an unreasonable level. In support of this contention, commenters noted that manufacturers sell to dealers rather than ultimate purchasers. Therefore, the point-of-first-sale information is the only actual sales data reasonably available to them. For this reason, manufacturers do not have access to the bill of sale as required in the NPRM.

By and large, manufacturer comments supported the use of actual production data rather than either sales to dealers or ultimate purchasers, for three reasons. First, several commenters noted that production data is already available as part of a year-end report submitted to EPA under Title 40 of the Code of Federal Regulations section 86.085-37. Ford suggested that, if EPA

desired sales data, this report could be slightly expanded to include point of first sale information during the years of the phase-in. Second, CM stated that production data is more accurate than actual sales data. Third, it was noted that California accepts production data for verification of compliance with the phase-in.

EPA Response to the Comments

Given that the Agency has decided to include vehicles sold in California and section 177 states in the calculation of phase-in percentages, the location of the ultimate purchaser is no longer of importance in determining compliance with the phase-in. The Agency also deems the additional tracking systems required of manufacturers to determine ultimate sales to be a hardship with little environmental benefit. Therefore, EPA agrees with commenters that point of first sale is the most reasonable basis for determining compliance. Inasmuch as the Act speaks only in terms of "sales volume," and does not specify to whom the sales are made, such an approach is permissible under the Act.

Additionally, a review of actual sales versus production data shows that the difference between the two is likely to be of no significance in most cases. In the eleven-year period from 1979 through 1989, for example, MVMA data show that actual production of passenger cars exceeded actual factory sales of passenger cars by an average of only 1.0 percent.¹¹ In the last three model years, the mean difference has dropped to 0.2 percent. The differences in the production and sales figures can be attributed to differences in assigning the cutoff dates for determining the two figures and losses incurred in transportation, as well as other factors. The Agency sees little likelihood that these or other factors would provide a rationale for manufacturers to produce significant numbers of vehicles that would not actually be sold. Thus, the final rule allows a manufacturer to use actual production data in lieu of actual sales data, at the option of the manufacturer, if the manufacturer can demonstrate that the two sources are functionally equivalent. As mentioned in section II above, in order to use production data rather than actual sales, a manufacturer must petition the Agency no later than 30 days following the end of the model year, providing analysis demonstrating functional equivalence of production and sales

¹¹ MVMA Motor Vehicle Facts & Figures '90, Motor Vehicle Manufacturers Association of the United States, Inc., p. 6.

data. Approval of the use of production data will be presumed unless otherwise notified by the Agency within 30 days of submittal.

The Agency has determined that it is appropriate to require the submission of actual sales (or production data) within 90 days after the end of the model year so that timely enforcement decisions can be made; this aspect of the NPRM is therefore unchanged in the final rule. A manufacturer may combine this report with annual production reports under § 86.085-37, but it is the "within 90 days" requirement of newly promulgated § 86.094-23 which will control the timing of submission. This reporting requirement is consistent with those previously promulgated for banking and trading and averaging.

I. Model Year 2004 Requirements

Summary of the Proposal

The Tier 1 NPRM included sections proposing standards and related regulations for model year 1994 LDVs and LDTs, and analogous sections for model year 2004 LDVs and LDTs. The model year 2004 sections served two purposes. First, all obsolete standards and sections, including the Tier 0 standards and phase-in requirements dating back to the 1994 regulations, were deleted, thus clarifying the requirements remaining in place after completion of the phase-in. Second, the Agency responded to a footnote to Table G of section 202(g)(1) of the Act, which stated that the NOx standards for diesel-fueled vehicles were to be less stringent than the non-diesel standards "before model year 2004"; thus, standards were republished for model year 2004 in such a way as to bring the gasoline and diesel NOx standards into equivalence.

Summary of the Comments

Rep. Waxman commented that the Tier 2 standards as established in section 202(i) of the revised Act were to take effect in model year 2004, to be superseded only if an Agency study showed just cause. In his view, the standards proposed by EPA in the Tier 1 NPRM implied an inappropriate prejudice of the lack of need for the Tier 2 standards. The City of New York Department of Environmental Protection (DEP) commented that default Tier 2 standards should have been included in the proposal, since it had not yet been determined that alternative Tier 2 standards were "unnecessary, unachievable, nor cost effective." This last comment also apparently arose because EPA proposed model year 2004 standards in the Tier 1 NPRM.

EPA Response to the Comments

The Agency disagrees with the comment that the model year 2004 sections of the NPRM prejudged the need for the Tier 2 standards; EPA did not intend for its Tier 1 proposal to be interpreted in that manner. The Tier 1 proposal, undertaken pursuant to a six-month statutory deadline, was not intended to cover the tier 2 standards. The Agency will pursue the study of the Tier 2 standards called for by section 202(i) of the Act, and will address the Tier 2 standards in a subsequent rule. To remove any potential confusion, however, EPA has chosen to delete the model year 2004 sections from the final Tier 1 rule. The change in the diesel NOx standard referenced in the footnote to Table G of section 202(g)(1) of the Act will be addressed in the Tier 2 rulemaking. However, the Agency still desires to provide an updated version of the regulations with the phase-in requirements and obsolete standards deleted; this will be accomplished in the final rule through promulgation of 1996 and 1997 model year sections that reflect the appropriate deletions (§§ 86.096-8 and 86.097-9).

J. Small Volume Manufacturers

Summary of the Proposal

The NPRM proposed compliance with the Tier 1 phase-in schedule by all manufacturers, regardless of size. This approach was based on the language of sections 202(g) and 202(h) of the Act, which required compliance by a "percentage of each manufacturer's sales volume."

Summary of the Comments

Rolls Royce indicated concern over the impacts of the Tier 1 phase-in requirements on small volume manufacturers. Its comments focused on the reliance of many small volume manufacturers on larger manufacturers for supplies of their control systems, the potential vulnerability of small manufacturers if their suppliers choose slower-than-desired schedules for Tier 1 "upgrades" to those systems, and the potential constraints for manufacturers with limited numbers of engine families. Chrysler also observed that small manufacturers "with few engine families could be forced to certify virtually 100 percent of their products in the first year."

EPA Response to the Comments

The Agency acknowledges the concerns of the commenters that small volume manufacturers face an unusual burden in the face of the Tier 1 phase-in. Most such manufacturers rely on a

single engine family; a few have two engine families. With phase-in compliance determined at the engine family level, those manufacturers with a single engine family effectively face 100 percent compliance requirements in the first year of the phase-in.

The Agency agrees that small volume manufacturers rely on larger manufacturers for the supply of emission controls, or even entire engine/emission-control systems. In this situation, the ability of the small volume manufacturer to comply with the Tier 1 phase-in requirements lies in the hands of another company. The risk exists that a small volume manufacturer may be unable to produce its product in a given year, representing a distortion of the marketplace that the EPA believes was not intended by Congress. Alternatively, the Agency is concerned that small volume manufacturers could experience inappropriate pressure to reach subsidiary arrangements with larger manufacturers, as a means to avoid any phase-in noncompliance they might face as an independent company. In the Agency's view, such a situation would again be anticompetitive.

The magnitude of the impact from small volume manufacturers during the phase-in period is almost certain to be negligible; they accounted for less than 10,300 vehicles in model year 1990, or considerably less than one-tenth of one percent of the 1990 model year fleet. On this basis, EPA concludes that the impact of imposing the Tier 1 phase-in schedule on the small volume manufacturers would be all but immeasurable in terms of the portion of the nationwide fleet affected.

The Agency has also reviewed the issue of whether it has any authority to grant an exemption from the phase-in requirements for certain small volume manufacturers. Upon that review, EPA believes that, although the Tier 1 provisions are drafted in terms of the phase-in requirements applying to "each manufacturer," EPA nevertheless has the authority to grant such an exemption pursuant to its authority to exempt *de minimis* situations from statutory commands. See *Alabama Power Co. v. Costle*, 636 F. 2d 323, 360-61 (D.C. Cir. 1979).

In *Alabama Power*, the court indicated that EPA had the implicit authority under the Clean Air Act to exempt *de minimis* situations. The court stated that "[c]ategorical exemptions may also be permissible as an exercise of agency power, inherent in most statutory schemes, to overlook circumstances that in context may fairly be considered *de minimis*." 636 F.2d at

360. The court emphasized, however, that the ability "to exempt *de minimis* situations from a statutory command is not an ability to depart from the statute, but rather a tool to be used in implementing the legislative design." *Id.* The Agency believes that this authority provides a basis for establishing a small volume exemption from the phase-in requirements for the reasons described above.

The Agency also notes that the California motor vehicle control program, used by Congress as the model for much of the Tier 1 program, provides that small volume manufacturers may choose to delay compliance until the last year of the phase-in for any given vehicle group. In the final Tier 1 rule, EPA is taking a similar approach. This option applies only to manufacturers whose total annual U.S. sales volume falls below 10,000 units.

K. NMHC Measurements and Calculations

Summary of the Proposal

The Tier 1 NPRM proposed to adopt, essentially intact, the NMHC measurement techniques adopted by CARB for use in certifying vehicles in the state of California. The Agency stated its belief that the CARB procedures were adequate for the purposes intended by the Amendments.

Summary of the Comments

Ford commented that although EPA intended to adopt California's NMHC procedure, several important differences existed between the CARB procedure and that proposed by EPA in the Tier 1 NPRM, for both gasoline-fueled and methanol-fueled vehicles.

One difference claimed by Ford for gasoline-fueled vehicles was CARB's inclusion of a response (R) factor to correct for the response of the THC Flame Ionization Detector (FID) to methane. A second difference cited was the method in which background concentrations were taken into account.

For methanol-fueled vehicles, Ford echoed for OMNMHCE its comment on background concentrations. Second, Ford claimed that CARB does not include formaldehyde in its definition of NMHC for methanol-fueled vehicles, while EPA did. Ford commented that the dilution factors for CARB and EPA are defined differently. Finally, Ford repeated the comment that R factors to account for THC FID response were not included in the EPA proposal, while they were for CARB.

Ford suggested that some of these deviations arose because the CARB procedure was revised subsequent to

the version used by EPA as the model for Tier 1 proposal.

AGA/NGVC commented that the proposed procedure would be inaccurate if applied to natural gas vehicles, and thus should be limited to fuels other than natural gas. They note that CARB's current procedure would also be inaccurate, but that CARB has promised to revise it.

EPA's Response to the Comments

The Agency disagrees with the comment that differences between the NPRM and CARB procedures arise because a subsequent version of the CARB procedure is now in effect. The procedure employed as the template for the Tier 1 NPRM was the CARB procedure as revised on 15 May 1990 and made effective 15 July 1990. On 3 January 1991, CARB published a proposal for a revision to their NMHC procedure that has yet to be finalized. The Agency's understanding is that the basis for the revision was CARB's move to the use of non-methane organic gas (NMOG) standards in conjunction with its low emitting vehicle regulations, an approach that EPA has not yet undertaken. The CARB proposal does include THC FID response factors in the calculation of NMHC. The Agency will reconsider this issue in the event that CARB finalizes the regulations to include the R factors. At the present time, however, the Agency considers the issue of appropriate R factors to be unresolved. The EPA may also wish to examine the importance of other aspects of the test procedure concurrently with any examination of FID response factors.

Likewise, it is not the case that present CARB and proposed EPA methods for calculating the dilution factor differ. Until CARB implements a change to its procedure, the two methods match. The difference between the current procedure and the one proposed by CARB lies in the inclusion of the R factor in the dilution factor computation for the purpose of correcting for FID response to methane concentration. Again, this issue can be revisited should CARB implement new procedures.

The NMHC and OMNMHCE calculations proposed by EPA and adopted by CARB do differ in the order in which background concentrations are taken into account. This difference arises because EPA and CARB regulations have historically differed in the order in which the terms of concentration equations are considered, not because the numerical result is different. Revising the order of calculation to match CARB for Tier 1

would have implied a similar revision in the remainder of the EPA calculation section, which was unjustified given the identical numerical result.

The Agency disagrees with Ford's comment that formaldehyde is treated inconsistently by the EPA and CARB for methanol vehicles. It is true that CARB maintains a separate formaldehyde standard for methanol vehicles, but its methanol vehicle hydrocarbon standards also include formaldehyde, as with EPA.

In response to the comment of AGA/NGVC, EPA agrees that the calculation methodology from the NPRM would need modification for it to be applied to CNG vehicles. As pointed out in section 2.2.3 above, however, a separate and subsequent EPA rulemaking is underway to address CNG issues.

L. Miscellaneous Issues

Several other issues were mentioned by individual commenters. First, Ford noted that the adoption of a new test weight basis for HLDTs warrants a fuel economy adjustment factor for labelling and Corporate Average Fuel Economy (CAFE) purposes. While this issue fell beyond the statutory mandate for completion of a Tier 1 rulemaking within six months following adoption of the 1990 Amendments, EPA will take Ford's suggestions under advisement and respond as appropriate in the future.

Second, Ford also suggested that the proposed underhood labelling provisions be revised to eliminate the requirement to list applicable certification and in-use standards on the label. Ford viewed this requirement as adding unneeded complexity, and stated that the engine family name would be sufficient to determine applicable standards. While EPA agrees that the requirement adds complexity to the label, the Agency considers it important for a user to be able to determine, without access to databases or extensive records, which of the many possible combinations of standards apply to a given vehicle. This need outweighs the burden on the manufacturer which can, with relative ease, obtain the appropriate information to be printed on the label. Thus the Agency has retained the labelling approach as proposed. No sunset provision for this requirement has been included in the final rule; however, if it becomes apparent after completion of the phase-in that this need no longer exists, the Agency will consider requests to revoke this requirement.

Revisions to the durability procedures were another area of concern for some commenters. Specifically, Rep. Waxman

and the New York DEP noted that the lack of such procedures leaves the Tier 1 provisions incomplete, and should be included as part of the standards themselves. One manufacturer commented that the Tier 1 NPRM provided adequate guidance in this area, and supported EPA's intention as stated in the NPRM to revise the durability procedures in a separate rulemaking. The Agency agrees that aspects of the durability procedures are in need of revision, and that leadtime is short for the manufacturers to apply those procedures in the 1994 model year. Nevertheless, the Agency continues to believe, as stated in the NPRM, that the issues in that revision are too complex to have been addressed in the Tier 1 rule, and that it is proceeding legally and appropriately with the separate durability rulemaking.

On another issue, Ford provided six specific technical amendments to the test procedures of Subpart B as they were proposed in the NPRM. The suggestions, each of which is minor and noncontroversial, address inconsistencies in parallel sections or inadvertently omitted words from the NPRM. Four of the amendments suggested were appropriate to the Tier 1 rule and will be incorporated; the final two will be addressed through a separate rulemaking, now underway, to provide selected technical amendments to the existing EPA methanol test procedures. Chevron U.S.A., Inc., also commented on aspects of the existing methanol test procedures, recommending heating of the entire sampling system for methanol vehicles to ensure high collection efficiencies for oxygenated components of the exhaust, and requirements for attaining high collection efficiencies during certification testing. As with the two Ford comments mentioned above, these comments were not specific to the Tier 1 rule, and will be addressed in the technical amendments to EPA's methanol test procedures, currently underway.

Finally, the Agency notes that at a number of points in the NPRM, the construction "[Reserved]. For guidance see § 86.09x-yy" was used to indicate points where provisions from existing regulations were unchanged by the Tier 1 rulemaking. In some of these cases, EPA has chosen in the final rule to carry forward the unchanged text into the new Tier 1 sections, where the clarity of the language and the ease of use would be enhanced. This includes cases where the unchanged paragraphs were short or where the continuity of a complex

section would have been unnecessarily broken.

V. Economic, Environmental, and Cost-Benefit Impacts

Because promulgation of the Tier 1 standards and the associated measurement procedures was mandated by statute, Congress has implicitly judged the economic, environmental, and cost-benefit implications of the new standards to be acceptable. The information provided in this section is based upon the analyses available to Congress as it debated and resolved the final form of the Amendments. It is provided here not as a comprehensive analysis of the economic and environmental issues, but rather as examples of the data Congress used in making its legislative judgments. In recognition of the non-discretionary nature of the rulemaking and the timeline for its promulgation, no new analysis in these areas has been undertaken by the Agency specifically in preparation for this final rule.

The principal economic impacts of the new standards will be those felt by the automobile manufacturers as they design and install new emission control components, alter existing components, or apply existing technologies to automobiles where these technologies had not been previously applied, in efforts to come into compliance with the new standards. Various relevant cost analyses have been prepared by E.H. Pechan & Associates, Inc.¹² An Agency contract to update these analyses to incorporate the final Clean Air Act Amendment package as signed by the President is in progress. Absent the current availability of such information, estimates presented in this analysis refer to analyses of the House and Senate bills contained in the previous Pechan reports.

For purposes of analysis, the principal economic impacts of the Tier 1 standards can be broken down into the following three categories: 1) those impacts caused by the change in the hydrocarbon standard; 2) the impacts caused by the change in the nitrogen oxides (NOx) standard; and 3), the impact of the extension of vehicle useful life from 50,000 miles to 100,000 miles. The estimated costs presented below are in addition to the baseline costs required to meet the current tailpipe standards.

¹² See, for example, "Ozone Nonattainment Analysis: A comparison of Bills," E. H. Pechan and Associates, Inc., prepared for USEPA Office of Air and Radiation, January 26, 1990, p. 57, in the public docket.

The Agency estimates that the average cost per vehicle of meeting the light-duty vehicle and LDT1 NMHC standard is \$37. EPA has made similar estimates of the cost required to meet the tightened NOx standards, arriving at a figure of \$115 per light-duty vehicle or LDT1. The total cost to manufacturers of complying with the light-duty vehicle and LDT1 Tier 1 standards is therefore approximately \$152 per vehicle.¹³ The total cost to manufacturers of complying with the LDT2 through LDT4 Tier 1 standards is projected by EPA to be somewhat lower, at \$57 per truck, owing to lower costs of compliance with both the NMHC and NOx standards.

The environmental impacts of the Tier 1 standards will not be fully appreciated until the standards are fully phased in. According to the June 15, 1990, analysis of projected costs and VOC reductions, prepared by Pechan & Associates, the national reduction of VOCs is projected to be about 8,000 tons in 1995 when compared to current policy and standards. By 2000 the projected annual VOC reductions for non-attainment areas climb to about 0.4 percent, and by 2005 the tons reduced nationally is projected to reach 160,000, a 0.6 percent reduction in nonattainment areas. Emission reduction estimates for the standards in the final statutory language are not currently available.

In their January 26, 1990, report, Pechan & Associates estimated the cost per ton of national VOC reductions in 2005—after full implementation of the NMHC phase-in—to be \$3700. The \$3700 figure does not incorporate discounting of either the national cost or national emissions reduction. An additional EPA analysis of cost-effectiveness on a per vehicle basis and incorporating a 10 percent discount rate yields a cost per ton of \$6018.78.¹⁴ This figure should be considered roughly comparable to the \$3700 Pechan value, with the discounting calculation accounting for the numerical difference. Because the emissions reduction estimates for NOx are not yet available, no cost effectiveness numbers associated with NOx have been provided.

¹³ "Recent CAA Cost Developments," Note from Philip A. Loring to Richard D. Wilson and Charles L. Gray, Jr., Emission Control Technology Division, Office of Mobile Sources, USEPA (23 January 1990). Available in the public docket for review.

¹⁴ Memo from James McCargar to Robert Maxwell, "Analysis of NMHC Cost-Effectiveness," EPA, Office of Mobile Sources (January 31, 1991). Available in the public docket for review.

VI. Administrative Requirements

A. Administrative Designation and Regulatory Impact Analysis

Under the Executive Order 12291, EPA has determined that this regulation is major. A Regulatory Impact Analysis has been prepared and is available from the address provided under "FOR FURTHER INFORMATION CONTACT."

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB and any EPA response to those comments are in the public docket for this rulemaking.

B. Information Collection Requirements

The information collection requirements in this final rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2060-0104. An Information Collection Request has been prepared by EPA (ICR No.783) and a copy may be obtained from Sandy Farmer, Information Policy Branch; EPA; 401 M St., SW. (PM-223); Washington, DC 20460, or by calling (202) 382-2740. No official comments were submitted to the docket regarding the information collection requirements developed for the NPRM.

Public reporting burden for this collection of information is estimated to be 2,766 hours per respondent annually, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Paperwork Reduction Project (OMB #2060-0104), Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

C. Impact on Small Entities

The Regulatory Flexibility Act of 1980 requires federal agencies to identify potentially adverse impacts of federal regulations upon small entities. In instances where significant impacts are possible on a substantial number of these entities, agencies are required to perform a Regulatory Flexibility Analysis (RFA).

EPA has determined that the regulations adopted today will not have

a significant impact on a substantial number of small entities. This regulation will affect only manufacturers of motor vehicles and motor vehicle engines, a group which does not contain a substantial number of small entities.

Therefore, as required under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, I certify that this regulation does not have a significant impact on a substantial number of small entities.

VII. Statutory Authority

The promulgation of these regulations is authorized by sections 202, 203, 206, 207(c), 208, and 301(a) of the Clean Air Act as amended by the Clean Air Act Amendments of 1990 (42 U.S.C. 7521, 7522, 7525, 7541(c), 7542, and 7601(a)).

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Air pollution control, Gasoline, Labeling, Motor vehicles, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: May 21, 1991.

William K. Reilly,
Administrator.

For the reasons set out in the preamble, part 86 of title 40 of the Code of Federal Regulations is amended as follows:

PART 86—[AMENDED]

1. The title for part 86 is revised to read as follows:

PART 86—CONTROL OF AIR POLLUTION FROM NEW AND IN-USE MOTOR VEHICLES AND NEW AND IN-USE MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

2. The authority citation for part 86 continues to read as follows:

Authority: Secs. 202, 203, 206, 207, 208, 215, 301(a), Clean Air Act as amended (42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7549, 7550 and 7601(a)).

Subpart A—[Amended]

3. The heading for subpart A of part 86 is revised to read as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Engines, and for 1985 and Later Model Year New Gasoline-Fueled and Methanol-Fueled Heavy-Duty Vehicles

4. The table of contents of subpart A of part 86 is republished for the

convenience of the reader to read as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, Light-Duty Trucks, and Heavy-Duty Engines, and for 1985 and Later Model Year New Gasoline-Fueled and Methanol-Fueled Heavy-Duty Vehicles

Sec.

- 86.078-3 Abbreviations.
- 86.078-6 Hearings on certification.
- 86.078-7 Maintenance of records; submittal of information; right of entry.
- 86.079-31 Separate certification.
- 86.079-32 Addition of a vehicle or engine after certification.
- 86.079-33 Changes to a vehicle or engine covered by certification.
- 86.079-36 Submission of vehicle identification numbers.
- 86.079-39 Submission of maintenance instructions.
- 86.080-12 Alternative certification procedures.
- 86.081-8 Emissions standards for 1981 light-duty vehicles.
- 86.082-2 Definitions.
- 86.082-8 Emission standards for 1982 and later light-duty vehicles.
- 86.082-14 Small-volume manufacturer certification procedures.
- 86.082-34 Alternative procedure for notification of additions and changes.
- 86.083-30 Certification.
- 86.084-2 Definitions.
- 86.084-4 Section numbering; construction.
- 86.084-5 General standards; increase in emissions; unsafe conditions.
- 86.084-14 Small-volume manufacturers certification procedures.
- 86.084-15 Emission standards for 1984 model year heavy passenger cars.
- 86.084-26 Mileage and service accumulation; emission measurements.
- 86.084-40 Automatic expiration of reporting and recordkeeping requirements.
- 86.085-1 General applicability.
- 86.085-2 Definitions.
- 86.085-8 Emission standards for 1985 and later model year light-duty vehicles.
- 86.085-9 Emission standards for 1985 and later model year light-duty trucks.
- 86.085-10 Emission standards for 1985 and later model year gasoline-fueled heavy-duty engines and vehicles.
- 86.085-11 Emission standards for 1985 and later model year diesel heavy-duty engines.
- 86.085-13 Alternative durability program.
- 86.085-20 Incomplete vehicles, classification.
- 86.085-21 Application for certification.
- 86.085-22 Approval of application for certification; test fleet selections; determinations of parameters subject to adjustment for certification and Selective Enforcement Audit, adequacy of limits, and physically adjustable ranges.
- 86.085-23 Required data.
- 86.085-24 Test vehicles and engines.
- 86.085-25 Maintenance.
- 86.085-27 Special test procedures.

Sec.
 86.085-28 Compliance with emission standards.
 86.085-29 Testing by the Administrator.
 86.085-30 Certification.
 86.085-35 Labeling.
 86.085-37 Production vehicles and engines.
 86.085-38 Maintenance instructions.
 86.087-2 Definitions.
 86.087-8 Emission standards for 1987 light-duty vehicles.
 86.087-9 Emission standards for 1987 and later model year light-duty trucks.
 86.087-10 Emission standards for 1987 and later model year gasoline-fueled heavy-duty engines and vehicles.
 86.087-21 Application for certification.
 86.087-23 Required data.
 86.087-25 Maintenance.
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 86.088-9 Emission standards for 1988 and later model year light-duty trucks.
 86.088-10 Emission standards for 1988 and later model year gasoline-fueled heavy-duty engines and vehicles.
 86.088-11 Emission standards for 1988 and later model year diesel heavy-duty engines.
 86.088-21 Application for certification.
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 86.090-11 Emission standards for 1990 and later model year diesel heavy-duty engines and vehicles.
 86.090-14 Small-volume manufacturers certification procedures.
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 86.091-9 Emission standards for 1991 and later model year light-duty trucks.
 86.091-10 Emission standards for 1991 and later model year Otto-cycle heavy-duty engines and vehicles.
 86.091-11 Emission standards for 1991 and later model year diesel heavy-duty engines and vehicles.
 86.091-21 Application for certification.
 86.091-23 Required data.
 86.091-28 Compliance with emission standards.
 86.091-29 Testing by the Administrator.
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 86.092-2 Definitions.
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 86.094-7 Maintenance of records; submittal of information; right of entry.
 86.094-8 Emission standards for 1994 and later model year light-duty vehicles.
 86.094-9 Emission standards for 1994 and later model year light-duty trucks.
 86.094-11 Emission standards for 1994 and later model year diesel heavy-duty engines and vehicles.
 86.094-21 Application for certification.
 86.094-23 Required data.
 86.094-30 Certification.
 86.094-35 Labeling.
 86.095-14 Small-volume manufacturers certification procedures.
 86.095-24 Test vehicles and engines.
 86.095-26 Mileage and service accumulation; emission measurements.
 86.095-30 Certification.
 86.095-35 Labeling.
 86.096-8 Emission standards for 1996 and later model year light-duty vehicles.
 86.097-9 Emission standards for 1997 and later model year light-duty trucks.

5. A new § 86.094-2 is added to subpart A to read as follows:

§ 86.094-2 Definitions.

The definitions of § 86.092-2 remain effective. The definitions listed in this section apply beginning with the 1994 model year.

Adjusted Loaded Vehicle Weight means the numerical average of vehicle curb weight and GVWR.

Equivalent test weight means the weight, within an inertia weight class, which is used in the dynamometer testing of a vehicle and which is based on its loaded vehicle weight or adjusted loaded vehicle weight in accordance with the provisions of subparts A and B of this part.

Heavy light-duty truck means any light-duty truck rated greater than 6000 lbs GVWR.

Light-duty truck 1 means any light light-duty truck up through 3750 lbs loaded vehicle weight.

Light-duty truck 2 means any light light-duty truck greater than 3750 lbs loaded vehicle weight.

Light-duty truck 3 means any heavy light-duty truck up through 5750 lbs adjusted loaded vehicle weight.

Light-duty truck 4 means any heavy light-duty truck greater than 5750 lbs adjusted loaded vehicle weight.

Light light-duty truck means any light-duty truck rated up through 6000 lbs GVWR.

Test weight basis means the basis on which equivalent test weight is determined in accordance with § 86.129-94 of subpart B of this part.

Useful life means:

(a) For light-duty vehicles, and for model year 1994 and later light light-duty trucks not subject to the Tier 0 standards of paragraph (a) of § 86.094-9, intermediate useful life and/or full useful life. Intermediate useful life is a period of use of 5 years or 50,000 miles, whichever occurs first. Full useful life is a period of use of 10 years or 100,000 miles, whichever occurs first, except as otherwise noted in § 86.094-9.

(b) For light light-duty trucks subject to the Tier 0 standards of paragraph (a) of § 86.094-9, and for heavy light-duty truck engine families, intermediate and/or full useful life. Intermediate useful life is a period of use of 5 years or 50,000 miles, whichever occurs first. Full useful life is a period of use of 11 years or 120,000 miles, whichever occurs first.

(c) For an Otto-cycle heavy-duty engine family, a period of use of 8 years or 110,000 miles, whichever first occurs.

(d) For a diesel heavy-duty engine family:

(1) For light heavy-duty diesel engines, period of use of 8 years or 110,000 miles, whichever first occurs.

(2) For medium heavy-duty diesel engines, a period of use of 8 years or 185,000 miles, whichever first occurs.

(3) For heavy heavy-duty diesel engines, a period of use of 8 years or 290,000 miles, whichever first occurs.

(e) As an option for both light-duty trucks under certain conditions and heavy-duty engine families, an alternative useful life period assigned by the Administrator under the provisions of paragraph (f) of § 86.094-21.

(f) The useful-life period for purposes of the emissions defect warranty and emissions performance warranty shall be a period of 5 years/50,000 miles, whichever first occurs, for light-duty

trucks, Otto-cycle heavy-duty engines and light heavy-duty diesel engines. For all other heavy-duty diesel engines the aforementioned period is 5 years/100,000 miles, whichever first occurs. However, in no case may this period be less than the manufacturer's basic mechanical warranty period for the engine family.

6. A new § 86.094-3 is added to subpart A to read as follows:

§ 86.094-3 Abbreviations.

(a) The abbreviations in § 86.090-3 remain effective. The abbreviations in this section apply beginning with the 1994 model year.

(b) The abbreviations in this section apply to this subpart, and also to subparts B, C, E, F, M, N, and P of this part, and have the following meanings: ALVW—Adjusted Loaded Vehicle Weight. OMNMHCE—Organic Material Non-Methane Hydrocarbon Equivalent. PM—Particulate Matter. THC—Total Hydrocarbons.

7. A new § 86.094-7 is added to subpart A to read as follows:

§ 86.094-7 Maintenance of records; submittal of information; right of entry.

Section 86.094-7 includes text that specifies requirements that differ from § 86.091-7. Where a paragraph in § 86.091-7 is identical and applicable to § 86.094-7, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.091-7." Where a corresponding paragraph of § 86.091-7 is not applicable, this is indicated by the statement "[Reserved]."

(a) Introductory text through (a)(2) [Reserved]. For guidance see § 86.091-7.

(a)(3) All records, other than routine emission test records, required to be maintained under this subpart shall be retained by the manufacturer for a period of eight (8) years after issuance of all certificates of conformity to which they relate. Routine emission test records shall be retained by the manufacturer for a period of one (1) year after issuance of all certificates of conformity to which they relate. Records may be retained as hard copy or reduced to microfilm, punch cards, etc., depending on the record retention procedures of the manufacturer, provided, that in every case all the information contained in the hard copy shall be retained.

(b) Through (c)(2) [Reserved]. For guidance see § 86.091-7.

(c)(3) The manufacturer (or contractor for the manufacturer, if applicable) shall retain all records required to be maintained under this section for a

period of eight (8) years from the due date for the end-of-model year averaging, trading, and banking reports. Records may be retained as hard copy or reduced to microfilm, ADP files, etc., depending on the manufacturer's record retention procedure, provided that in every case all the information contained in the hard copy is retained.

(c)(4) Through (d)(1)(v) [Reserved]. For guidance see § 86.091-7.

(d)(1)(vi) Any facility where any record or other document relating to the information specified in paragraph (h) of this section is located.

(2) Upon admission to any facility referred to in paragraph (d)(1) of this section, any EPA Enforcement Officer or any EPA authorized representative shall be allowed:

(i) To inspect and monitor any part or aspect of such procedures, activities, and testing facilities, including, but not limited to, monitoring vehicle (or engine) preconditioning, emissions tests and mileage (or service) accumulation, maintenance, and vehicle soak and storage procedures (or engine storage procedures), and to verify correlation or calibration of test equipment;

(ii) To inspect and make copies of any such records, designs, or other documents, including those records specified in § 86.091-7(c); and

(iii) To inspect and make copies of any such records, designs or other documents including those records specified in paragraph (h) of this section; and

(iv) To inspect and/or photograph any part or aspect of any such certification vehicle (or certification engine) and any components to be used in the construction thereof.

(d)(3) Through (g) [Reserved]. For guidance see § 86.091-7.

(h)(1) The manufacturer (or contractor for the manufacturer, if applicable) of any new model year 1994 through 1997 light-duty vehicle or light light-duty truck, or model year 1996 through 1998 heavy light-duty truck that is certified shall establish, maintain and retain the following adequately organized and indexed records for each such vehicle:

- (i) EPA engine family;
- (ii) Vehicle identification number;
- (iii) Model year and production date;
- (iv) Shipment date;
- (v) Purchaser; and
- (vi) Purchase contract.

(2) In addition, the manufacturer (or contractor for the manufacturer, if applicable) of each certified engine family shall establish, maintain and retain adequately organized records of the actual U.S. sales volume for the model year for each engine family. The manufacturer may petition the

Administrator to allow actual volume produced for U.S. sale to be used in lieu of actual U.S. sales. Such petition shall be submitted within 30 days of the end of the model year to the Manufacturers Operations Division. For the petition to be granted, the manufacturer must establish to the satisfaction of the Administrator that actual production volume is functionally equivalent to actual sales volume.

(3) The manufacturer (or contractor for the manufacturer, if applicable) shall retain all records required to be maintained under this section for a period of eight (8) years from the due date for the applicable end-of-model year report. Records may be retained as hard copy or reduced to microfilm, ADP files, etc., depending on the manufacturer's record retention procedure, provided that in every case all the information contained in the hard copy is retained.

(4) Nothing in this section limits the Administrator's discretion in requiring the manufacturer to retain additional records or submit information not specifically required by this section.

(5) Pursuant to a request made by the Administrator, the manufacturer shall submit to him the information that is required to be retained.

(6) EPA may void ab initio a certificate of conformity for a vehicle certified to Tier 0 certification standards for which the manufacturer fails to retain the records required in this section or to provide such information to the Administrator upon request.

(i) Any voiding ab initio of a certificate under § 86.091-7 (c) and paragraph (h) of this section will be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.614 for light-duty vehicles or under § 86.1014 for light-duty trucks and heavy-duty engines.

8. A new § 86.094-8 is added to subpart A to read as follows:

§ 86.094-8 Emission standards for 1994 and later model year light-duty vehicles.

Section 86.094-8 includes text that specifies requirements that differ from § 86.090-8. Where a paragraph in § 86.090-8 is identical and applicable to § 86.094-8, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.090-8." Where a corresponding paragraph of § 86.090-8 is not applicable, this is indicated by the statement "[Reserved]."

(a)(1) *Standards.* (i) Exhaust emissions from 1994 and later model year light-duty vehicles shall meet all standards in

Tables A94-2, A94-3, A94-5 and A94-6 in the rows designated with the applicable fuel type, according to the implementation schedule in Tables A94-1 and A94-4, as follows:

(A)(1)(i) A minimum of the percentage shown in Table A94-1 of a manufacturer's sales of the applicable model year's light-duty vehicles shall not exceed the applicable Tier 1 standards in Table A94-2 and shall not exceed the applicable Tier 1 standards in Table A94-3. The remaining vehicles shall not exceed the applicable Tier 0 standards in Table A94-2.

(ii) Optionally, a minimum of the percentage shown in Table A94-1 of a manufacturer's combined sales of the applicable model year's light-duty vehicles and light light-duty trucks shall

not exceed the applicable Tier 1 standards. Under this option, the light-duty vehicles shall not exceed the applicable Tier 1 standards in Table A94-2 and shall not exceed the applicable Tier 1 standards in Table A94-3. Further, the light light-duty trucks shall not exceed the applicable Tier 1 standards in Table A94-8 of § 86.094-9 and shall not exceed the applicable Tier 1 standards of Table A94-9 of § 86.094-9. The remaining percentage of the manufacturer's combined sales of the applicable model year's light-duty vehicles and light light-duty trucks shall not exceed the corresponding Tier 0 standards.

(2) A minimum of the percentage shown in Table A94-4 of a manufacturer's sales of the applicable

model year's light-duty vehicles shall not exceed the applicable Tier 1 standards in Table A94-5 and shall not exceed the applicable Tier 1 standards in Table A94-6. The remaining vehicles shall not exceed the applicable Tier 0 standards in Table A94-5.

TABLE A94-1.—IMPLEMENTATION SCHEDULE FOR LIGHT-DUTY VEHICLES FOR HCS, CO AND NOx

Model year	Tier 1 percentage
1994.....	40
1995.....	80
After 1995.....	100

TABLE A94-2.—INTERMEDIATE USEFUL LIFE STANDARDS (G/Mi) FOR LIGHT-DUTY VEHICLES FOR HCS, CO AND NOx

Fuel	Standards	THC	NMHC	OMHCE	OMNMHCE	CO	NOx
Gasoline.....	Tier 0.....	0.41				3.4	1.0
Gasoline.....	Tier 1.....	0.41	0.25			3.4	0.4
Diesel.....	Tier 0.....	0.41				3.4	1.0
Diesel.....	Tier 1.....	0.41	0.25			3.4	1.0
Methanol.....	Tier 0.....			0.41		3.4	1.0
Methanol.....	Tier 1.....			0.41	0.25	3.4	0.4

TABLE A94-3.—FULL USEFUL LIFE STANDARDS (G/Mi) FOR LIGHT-DUTY VEHICLES FOR HCS, CO AND NOx

Fuel	Standards	THC	NMHC	OMHCE	OMNMHCE	CO	NOx
Gasoline.....	Tier 0.....						
Gasoline.....	Tier 1.....		0.31			4.2	0.6
Diesel.....	Tier 0.....						
Diesel.....	Tier 1.....		0.31			4.2	1.25
Methanol.....	Tier 0.....						
Methanol.....	Tier 1.....				0.31	4.2	0.6

TABLE A94-4.—IMPLEMENTATION SCHEDULE FOR LIGHT-DUTY VEHICLES FOR PM

Model year	Tier 1 percentage
1994.....	40
1995.....	80
After 1995.....	100

TABLE A94-5.—INTERMEDIATE USEFUL LIFE STANDARDS (G/Mi) FOR LIGHT-DUTY VEHICLES FOR PM

Fuel	Standards	PM
Gasoline.....	Tier 0.....	
Gasoline.....	Tier 1.....	0.08
Diesel.....	Tier 0.....	0.20
Diesel.....	Tier 1.....	0.08
Methanol.....	Tier 0.....	0.20
Methanol.....	Tier 1.....	0.08

¹ Applicable only to diesel-cycle vehicles.

TABLE A94-6.—FULL USEFUL LIFE STANDARDS (G/Mi) FOR LIGHT-DUTY VEHICLES FOR PM

Fuel	Standards	PM
Gasoline.....	Tier 0.....	
Gasoline.....	Tier 1.....	0.10
Diesel.....	Tier 0.....	
Diesel.....	Tier 1.....	0.10
Methanol.....	Tier 0.....	
Methanol.....	Tier 1.....	0.10

(B)(1)(i) Sales percentages for the purposes of determining compliance with paragraph (a)(1)(i)(A) of this section shall be based on total actual U.S. sales of light-duty vehicles of the applicable model year by a manufacturer to a dealer, distributor, fleet operator, broker, or any other entity which comprises the point of first sale. If the option of paragraph (a)(1)(i)(A)(i) of this section is taken, such sales percentages shall be based on the total actual combined U.S. sales

of light-duty vehicles and light light-duty trucks of the applicable model year by a manufacturer to a dealer, distributor, fleet operator, broker, or any other entity which comprises the point of first sale.

(ii) The manufacturer may petition the Administrator to allow actual volume produced for U.S. sale to be used in lieu of actual U.S. sales for purposes of determining compliance with the implementation schedule sales percentages of Tables A94-1 and A94-4 of this section. Such petition shall be submitted within 30 days of the end of the model year to the Manufacturers Operations Division. For the petition to be granted, the manufacturer must establish to the satisfaction of the Administrator that actual production volume is functionally equivalent to actual sales volume.

(iii) The manufacturer may count toward the sales percentages light-duty vehicles of the applicable model year

that meet certain standards for that same model year contained in Title 13, California Code of Regulations, Section 1960.1, and the incorporated "California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles." (Copies may be obtained from Barclays Law Publishers, P.O. Box 3086, San Francisco, CA 94080.) The relevant standards from that source are those that are designated as phase-in standards for selected pollutants and were first applied in the 1993 model year, as well as those for all remaining pollutants that require compliance at the one hundred percent level. If this option is taken, all light-duty vehicles sold in jurisdictions adopting such standards shall be counted toward the total upon which the sales percentage is based. If this option is not taken, light-duty vehicles sold in such jurisdictions are to be excluded from counting toward either the total upon which the sales percentage is based or the sales percentage itself.

(iv) Small volume manufacturers, as defined in § 86.092-14 (b)(1) and (2), are exempt from the implementation schedules of Tables A94-1 and A94-4 of this section for model years 1994 and 1995. For small volume manufacturers, Tier 0 standards of Tables A94-2 and A94-5 continue to apply until model year 1996 when one hundred percent compliance with the Tier 1 standards of Tables A94-2, A94-3, A94-5, and A94-8 is required. This exemption does not apply to small volume engine families as defined in § 86.092-14 (b)(5).

(2)(i) Where the required implementation schedule sales percentages for in-use purposes, as prescribed in subpart H of this part, are the same in a given model year as the required implementation schedule sales percentages for certification purposes, as prescribed in this section, the same engine families must comprise the respective percentages.

(ii) Where the required implementation schedule sales percentages for in-use purposes differ from implementation schedule sales percentages for certification purposes in a particular model year, the manufacturer must designate, at the time of Application for Certification, which families will meet each applicable in-use phase-in percentage.

(3) The manufacturer must state at the time of Application for Certification, based on projected U.S. sales or projected production for U.S. sale, which families will be used to attain the required implementation schedule sales

percentages for certification purposes.

(4) A manufacturer can not use one set of engine families to meet its intermediate useful life standards and another to meet its full useful life standards. The same families which are used to meet the intermediate useful life standards will be required without deviation to meet the corresponding full useful life standards.

(ii) A manufacturer may elect to include all or some of its diesel-cycle light-duty vehicle engine families subject to the Tier 0 standards in the appropriate particulate averaging program (petroleum or methanol), provided that vehicles produced for sale in California or in designated high-altitude areas may be averaged only within each of these areas. Averaging is not permitted between fuel types. If the manufacturer elects to average light-duty vehicles and light-duty trucks together in the appropriate particulate averaging program, its composite particulate standard applies to the combined set of light-duty vehicles and light-duty trucks included in the average and is calculated as defined in § 86.090-2.

(2) The standards set forth in paragraph (a)(1)(i) of this section refer to the exhaust emitted over a driving schedule as set forth in subpart B of this part and measured and calculated in accordance with those procedures. The test weight basis for light-duty vehicles, for the purposes of determining equivalent test weight as prescribed in § 86.129-94, shall be loaded vehicle weight.

(b) through (h) [Reserved]. For guidance see § 86.090-8.

(i)(1) The manufacturers may exempt 1994 and later model year vehicles from compliance at low altitude with the emission standards set forth in paragraph (a) of this section and § 86.090-8 (b) if the vehicles:

(i) Are not intended for sale at low altitude; and

(ii) Are equipped with a unique, high-altitude axle ratio (rear-wheel drive vehicles) or a unique, high-altitude drivetrain (front-wheel drive vehicles) with a higher N/V ratio than other configurations of that model type which are certified in compliance with the emission standards of paragraph (a) of this section and § 86.090-8 (b) under low-altitude conditions.

(2) The sale of a vehicle for principal use at low altitude that has been exempted as set forth in paragraph (i)(1) of this section will be considered a violation of section 203(a)(1) of the Clean Air Act.

(j) Any exempted light-duty vehicle

that a manufacturer wishes to certify for sale under the provisions of § 86.090-8 (h) or paragraph (i) of this section is subject to the provisions of subpart Q of this part.

(Approved by the Office of Management and Budget under control number 2060-0104)

9. A new § 86.094-9 is added to subpart A to read as follows:

§ 86.094-9 Emission standards for 1994 and later model year light-duty trucks.

(a)(1) *Standards*—(i) *Light light-duty trucks.* Exhaust emissions from 1994 and later model year light light-duty trucks shall meet all standards in Tables A94-8, A94-9, A94-11 and A94-12 in the rows designated with the applicable fuel type and loaded vehicle weight, according to the implementation schedule in Tables A94-7 and A94-10 as follows:

(A)(1)(i) A minimum of the percentage shown in Table A94-7 of a manufacturer's sales of the applicable model year's light light-duty trucks shall not exceed the applicable Tier 1 standards in Table A94-8 and shall not exceed the applicable Tier 1 standards in Table A94-9. The remaining vehicles shall not exceed the applicable Tier 0 standards in Table A94-9.

(ii) Optionally, a minimum of the percentage shown in Table A94-7 of a manufacturer's combined sales of the applicable model year's light-duty vehicles and light light-duty trucks shall not exceed the applicable Tier 1 standards. Under this option, the light-duty vehicles shall not exceed the applicable Tier 1 standards in Table A94-2 of § 86.094-8 and shall not exceed the applicable Tier 1 standards in Table A94-3 of § 86.094-8. Further, the light light-duty trucks shall not exceed the applicable Tier 1 standards in Table A94-8 and shall not exceed the applicable Tier 1 standards of Table A94-9. The remaining percentage of the manufacturer's combined sales of the applicable model year's light-duty vehicles and light light-duty trucks shall not exceed the corresponding Tier 0 standards.

(2) A minimum of the percentage shown in Table A94-10 of a manufacturer's sales of the applicable model year's light light-duty trucks shall not exceed the applicable Tier 1 standards in Table A94-11 and shall not exceed the applicable Tier 1 standards in Table A94-12. The remaining vehicles shall not exceed the applicable Tier 0 standards in Table A94-12.

TABLE A94-7.—IMPLEMENTATION SCHEDULE FOR LIGHT LIGHT-DUTY TRUCKS FOR HCS, CO, AND NOX

Model year	Tier 1 percentage
1994.....	40
1995.....	80
After 1995.....	100

TABLE A94-8.—INTERMEDIATE USEFUL LIFE STANDARDS (G/Mi) FOR LIGHT LIGHT-DUTY TRUCKS FOR HCS, CO AND NOX

Fuel	LVW (lbs)	Standards	THC	NMHC	OMHCE	OMNMHCE	CO	NOx
Gasoline.....	0-3750	Tier 0.....						
Gasoline.....	0-3750	Tier 1.....		0.25			3.4	0.4
Gasoline.....	3751-5750	Tier 0.....						
Gasoline.....	3751-5750	Tier 1.....		0.32			4.4	0.7
Diesel.....	0-3750	Tier 0.....						
Diesel.....	0-3750	Tier 1.....		0.25			3.4	1.0
Diesel.....	3751-5750	Tier 0.....						
Diesel.....	3751-5750	Tier 1.....		0.32			4.4	
Methanol.....	0-3750	Tier 0.....						
Methanol.....	0-3750	Tier 1.....				0.25	3.4	0.4
Methanol.....	3751-5750	Tier 0.....						
Methanol.....	3751-5750	Tier 1.....				0.32	4.4	0.7

TABLE A94-9.—FULL USEFUL LIFE STANDARDS (G/Mi) FOR LIGHT LIGHT-DUTY TRUCKS FOR HCS, CO AND NOX

Fuel	LVW (lbs)	Standards	THC ¹	NMHC	OMHCE ¹	OMNMHCE	CO	NOx
Gasoline.....	0-3750	Tier 0.....	0.80				10	1.2
Gasoline.....	0-3750	Tier 1.....	0.80	0.31			4.2	0.6
Gasoline.....	3751-5750	Tier 0.....	0.80				10	1.7
Gasoline.....	3751-5750	Tier 1.....	0.80	0.40			5.5	0.97
Diesel.....	0-3750	Tier 0.....	0.80				10	1.2
Diesel.....	0-3750	Tier 1.....	0.80	0.31			4.2	1.25
Diesel.....	3751-5750	Tier 0.....	0.80				10	1.7
Diesel.....	3751-5750	Tier 1.....	0.80	0.40			5.5	0.97
Methanol.....	0-3750	Tier 0.....			0.80		10	1.2
Methanol.....	0-3750	Tier 1.....			0.80	0.31	4.2	0.6
Methanol.....	3751-5750	Tier 0.....			0.80		10	1.7
Methanol.....	3751-5750	Tier 1.....			0.80	0.40	5.5	0.97

¹ Applicable useful life is 11 years or 120,000 miles, whichever occurs first.

TABLE A94-10.—IMPLEMENTATION SCHEDULE FOR LIGHT LIGHT-DUTY TRUCKS FOR PM

Model year	Tier 1 Percentage
1994.....	0
1995.....	40
1996.....	80
After 1996.....	100

TABLE A94-11.—INTERMEDIATE USEFUL LIFE STANDARDS (G/Mi) FOR LIGHT LIGHT-DUTY TRUCKS FOR PM

Fuel	LVW (lbs)	Standards	PM
Gasoline.....	0-3750	Tier 0.....	
Gasoline.....	0-3750	Tier 1.....	0.08
Gasoline.....	3751-5750	Tier 0.....	
Gasoline.....	3751-5750	Tier 1.....	0.08
Diesel.....	0-3750	Tier 0.....	

TABLE A94-11.—INTERMEDIATE USEFUL LIFE STANDARDS (G/Mi) FOR LIGHT LIGHT-DUTY TRUCKS FOR PM—Continued

Fuel	LVW (lbs)	Standards	PM
Diesel.....	0-3750	Tier 1.....	0.08
Diesel.....	3751-5750	Tier 0.....	
Diesel.....	3751-5750	Tier 1.....	0.08
Methanol.....	0-3750	Tier 0.....	
Methanol.....	0-3750	Tier 1.....	0.08
Methanol.....	3751-5750	Tier 0.....	
Methanol.....	3751-5750	Tier 1.....	0.08

TABLE A94-12.—FULL USEFUL LIFE STANDARDS (G/Mi) FOR LIGHT LIGHT-DUTY TRUCKS FOR PM

Fuel	LVW (lbs)	Standards	PM
Gasoline.....	0-3750	Tier 0.....	
Gasoline.....	0-3750	Tier 1.....	0.10

TABLE A94-12.—FULL USEFUL LIFE STANDARDS (G/Mi) FOR LIGHT LIGHT-DUTY TRUCKS FOR PM—Continued

Fuel	LVW (lbs)	Standards	PM
Gasoline.....	3751-5750	Tier 0.....	
Gasoline.....	3751-5750	Tier 1.....	0.10
Diesel.....	0-3750	Tier 0.....	0.26
Diesel.....	0-3750	Tier 1.....	0.10
Diesel.....	3751-5750	Tier 0.....	0.13
Diesel.....	3751-5750	Tier 1.....	0.10
Methanol.....	0-3750	Tier 0.....	¹ 0.26
Methanol.....	0-3750	Tier 1.....	0.10
Methanol.....	3751-5750	Tier 0.....	¹ 0.13
Methanol.....	3751-5750	Tier 1.....	0.10

¹ Applicable only to diesel-cycle vehicles.

(B)(1)(i) Sales percentages for the purposes of determining compliance with paragraph (a)(1)(i)(A) of this section shall be based on total actual U.S. sales of light light-duty trucks of the applicable model year by a

manufacturer to a dealer, distributor, fleet operator, broker, or any other entity which comprises the point of first sale. If the option of paragraph (a)(1)(i)(A)(1)(ii) of this section is taken, such sales percentages shall be based on the total actual combined U.S. sales of light-duty vehicles and light light-duty trucks of the applicable model year by a manufacturer to a dealer, distributor, fleet operator, broker, or any other entity which comprises the point of first sale.

(ii) The manufacturer may petition the Administrator to allow actual volume produced for U.S. sales to be used in lieu of actual U.S. sales for purposes of determining compliance with the implementation schedule sales percentages of Tables A94-7 and A94-10 of this section. Such petition shall be submitted within 30 days of the end of the model year to the Manufacturers Operations Division. For the petition to be granted, the manufacturer must establish to the satisfaction of the Administrator that actual production volume is functionally equivalent to actual sales volume.

(iii) The manufacturer may count toward the sales percentages light light-duty trucks of the applicable model year that meet certain standards for that same model year contained in Title 13, "California Code of Regulations, Section 1900.1, and the incorporated California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles." (Copies may be obtained from Barclays Law Publishers, P.O. Box 3066, San Francisco, CA 94080.) The relevant standards from that source are those that are designated as phase-in standards for selected pollutants and were first applied in the 1993 model year, as well as those for all remaining pollutants that require compliance at the

one hundred percent level. If this option is taken, all light light-duty trucks sold in jurisdictions adopting such standards shall be counted toward the total upon which the sales percentage is based. If this option is not taken, light light-duty trucks sold in such jurisdictions are to be excluded from counting toward either the total upon which the sales percentage is based or the sales percentage itself.

(iv) Small volume manufacturers, as defined in § 86.092-14(b) (1) and (2), are exempt from the implementation schedules of Table A94-7 of this section for model years 1994 and 1995 and from the implementation schedules of Table A94-10 of this section for model years 1995 and 1996. For small volume manufacturers, the Tier 0 standards of Table A94-9 continue to apply until model year 1996, and the Tier 0 standards of Table A94-12 continue to apply until model year 1997, when one hundred percent compliance with the Tier 1 standards of Tables A94-8, A94-9, A94-11, and A94-12 is required. This exemption does not apply to small volume engine families as defined in § 86.092-14(b)(5).

(2)(i) Where the required implementation schedule sales percentages for in-use purposes, as prescribed in subpart H of this part, are the same in a given model year as the required implementation schedule sales percentages for certification purposes, as prescribed in this section, the same engine families must comprise the respective percentages.

(ii) Where the required implementation schedule sales percentages for in-use purposes differ from implementation schedule sales percentages for certification purposes in a particular model year, the manufacturer must designate, at the time of Application for Certification,

which families will meet each applicable in-use phase-in percentage.

(3) The manufacturer must state at the time of Application for Certification, based on projected U.S. sales or projected production for U.S. sale, which families will be used to attain the required implementation schedule sales percentages for certification purposes.

(4) A manufacturer can not use one set of engine families to meet its intermediate useful life standards and another to meet its full useful life standards. The same families which are used to meet the intermediate useful life standards will be required without deviation to meet the corresponding full useful life standards.

(ii) *Heavy light-duty trucks.* Exhaust emissions from 1994 and later model year heavy light-duty trucks shall meet all standards in Tables A94-14 and A94-15 in the rows designated with the applicable fuel type and loaded vehicle weight or adjusted loaded vehicle weight, as applicable, according to the implementation schedule in Table A94-13, as follows:

(A) A minimum of the percentage shown in Table A94-13 of a manufacturer's sales of the applicable model year's heavy light-duty trucks shall not exceed the applicable Tier 1 standards in Table A94-14 and shall not exceed the applicable Tier 1 standards in Table A94-15. The remaining vehicles shall not exceed the applicable Tier 0 standards in Table A94-15.

TABLE A94-13.—IMPLEMENTATION SCHEDULE FOR HEAVY LIGHT-DUTY TRUCKS FOR HCS, CO, NOX AND PM

Model year	Tier 1 percentage
1994.....	0
1995.....	0
1996.....	50
after 1996.....	100

TABLE A94-14.—INTERMEDIATE USEFUL LIFE STANDARDS (G/M) FOR HEAVY LIGHT-DUTY TRUCKS FOR HCS, CO, NOX AND PM

Fuel	ALVW (lbs)	Standards	THC	NMHC	OMHCE	OMNMHCE	CO	NOx	PM
Gasoline.....	3751-5750	Tier 0.....							
Gasoline.....	3751-5750	Tier 1.....		0.32			4.4	0.7	
Gasoline.....	> 5750	Tier 0.....							
Gasoline.....	> 5750	Tier 1.....		0.39			5.0	1.1	
Diesel.....	3751-5750	Tier 0.....							
Diesel.....	3751-5750	Tier 1.....		0.32			4.4		
Diesel.....	> 5750	Tier 0.....							
Diesel.....	> 5750	Tier 1.....		0.39			5.0		
Methanol.....	3751-5750	Tier 0.....							
Methanol.....	3751-5750	Tier 1.....				0.32	4.4	0.7	
Methanol.....	> 5750	Tier 0.....							
Methanol.....	> 5750	Tier 1.....				0.39	5.0	1.1	

TABLE A94-15.—FULL USEFUL LIFE STANDARDS (G/MI) FOR HEAVY LIGHT-DUTY TRUCKS FOR HCS, CO, NOx AND PM

Fuel	LVW (lbs)	ALVW (lbs)	Standards	THC	NMHC	OMHCE	OMNMHCE	CO	NOx	PM
Gasoline	0-3750		Tier 0	0.80				10	1.2	
Gasoline	>3750		Tier 0	0.80				10	1.7	
Gasoline		3751-5750	Tier 1	0.80	0.46			6.4	0.98	0.10
Gasoline		>5750	Tier 1	0.80	0.56			7.3	1.53	0.12
Diesel	0-3750		Tier 0	0.80				10	1.2	0.26
Diesel	>3750		Tier 0	0.80				10	1.7	0.13
Diesel		3751-5750	Tier 1	0.80	0.46			6.4	0.98	0.10
Diesel		>5750	Tier 1	0.80	0.56			7.3	1.53	0.12
Methanol	0-3750		Tier 0			0.80		10	1.2	0.26
Methanol	>3750		Tier 0			0.80		10	1.7	0.13
Methanol		3751-5750	Tier 1			0.80	0.46	6.4	0.98	0.10
Methanol		>5750	Tier 1			0.80	0.56	7.3	1.53	0.12

¹ Applicable only to diesel-cycle vehicles.

(B)(1)(i) Sales percentages for the purposes of determining compliance with paragraph (a)(1)(ii)(A) of this section shall be based on total actual U.S. sales of heavy light-duty trucks of the applicable model year by a manufacturer to a dealer, distributor, fleet operator, broker, or any other entity which comprises the point of first sale.

(ii) The manufacturer may petition the Administrator to allow actual volume produced for U.S. sale to be used in lieu of actual U.S. sales for purposes of determining compliance with the implementation schedule sales percentages of Table A94-13 of this section. Such petition shall be submitted within 30 days of the end of the model year to the Manufacturers Operations Division. For the petition to be granted, the manufacturer must establish to the satisfaction of the Administrator that actual production volume is functionally equivalent to actual sales volume.

(iii) The manufacturer may count toward the sales percentages heavy light-duty trucks of the applicable model year that meet certain standards for that same model year contained in Title 13, California Code of Regulations, Section 1960.1, and the incorporated "California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles." The relevant standards from that source are those that are designated as phase-in standards for selected pollutants and were first applied in the 1995 model year, as well as those for all remaining pollutants that require compliance at the one hundred percent level. If this option is taken, all heavy light-duty trucks sold in jurisdictions adopting such standards shall be counted toward the total upon which the sales percentage is based. If this option is not taken, heavy light-duty trucks sold in such jurisdictions are to be excluded from counting toward either the total upon which the sales

percentage is based or the sales percentage itself.

(iv) Small volume manufacturers, as defined in § 86.092-14(b) (1) and (2), are exempt from the implementation schedule of Table A94-13 of this section for model year 1996. For small volume manufacturers, the Tier 0 standards of Table A94-15 continue to apply until model year 1997, when one hundred percent compliance with the Tier 1 standards of Tables A94-14 and A94-15 is required. This exemption does not apply to small volume engine families as defined in § 86.092-14(b)(5).

(2)(i) Where the required implementation schedule sales percentages for in-use purposes, as prescribed in subpart H of this part, are the same in a given model year as the required implementation schedule sales percentages for certification purposes, as prescribed in this section, the same engine families must comprise the respective percentages.

(ii) Where the required implementation schedule sales percentages for in-use purposes differ from implementation schedule sales percentages for certification purposes in a particular model year, the manufacturer must designate, at the time of Application for Certification, which families will meet each applicable in-use phase-in percentage.

(3) The manufacturer must state at the time of Application for Certification, based on projected U.S. sales or projected production for U.S. sale, which families will be used to attain the required implementation schedule sales percentages for certification purposes.

(4) A manufacturer cannot use one set of engine families to meet its intermediate useful life standards and another to meet its full useful life standards. The same families which are used to meet the intermediate useful life standards will be required without deviation to meet the corresponding full useful life standards.

(iii) Exhaust emissions of carbon monoxide from 1994 and later model year light-duty trucks shall not exceed 0.50 percent of exhaust gas flow at curb idle at a useful life of 11 years or 120,000 miles, whichever first occurs (for Otto-cycle and methanol-fueled diesel-cycle light-duty trucks only).

(iv)(A) A manufacturer may elect to include all or some of its light-duty truck engine families subject to the Tier 0 standards in the NOx averaging program, provided that it does not elect to pay an NCP for noncompliance with any emission standard applicable to that light-duty truck family. Trucks produced for sale in California or in designated high-altitude areas may be averaged only within each of those areas. Petroleum-fueled and methanol-fueled engine families may not be averaged together. Otto-cycle and diesel engines families also may not be averaged together. If the manufacturer elects to participate in the NOx averaging program, individual family NOx emission limits may not exceed 2.3 grams per mile. If the manufacturer elects to average together NOx emissions of light-duty trucks subject to different standards based on GVWR and loaded vehicle weight, its composite NOx standard applies to the combined fleets of light-duty trucks of all weight categories included in the average, and is calculated as defined in § 86.088-2.

(B) A manufacturer may elect to include any diesel light-duty truck engine families subject to the Tier 0 standards in the appropriate particulate averaging program (petroleum or methanol), provided that it does not elect to pay an NCP for noncompliance with any emission standard applicable to that light-duty truck family. Trucks produced for sale in California or in designated high-altitude areas may be averaged only within each of those areas, and light-duty trucks greater than 3750 lbs loaded vehicle weight may be averaged only with other light-duty

trucks greater than 3750 lbs loaded vehicle weight. Averaging is not permitted between fuel types. If the manufacturer elects to average both light-duty trucks 3750 lbs loaded vehicle weight or less and light-duty vehicles together in the appropriate particulate averaging program, its composite particulate standard applies to the combined set of light-duty vehicles and light-duty trucks included in the average and is calculated as defined in § 86.088-2.

(2) The standards set forth in paragraphs (a)(1)(i) and (a)(1)(ii) of this section refer to the exhaust emitted over a driving schedule as set forth in subpart B of this part and measured and calculated in accordance with those procedures. The test weight basis for light light-duty trucks, and for heavy light-duty trucks certified to the Tier 0 standards of this section, for the purposes of determining equivalent test weight as prescribed in § 86.129-94, shall be loaded vehicle weight. The test weight basis for heavy light-duty trucks certified to the Tier 1 standards of this section, for the purposes of determining equivalent test weight as prescribed in § 86.129-94, shall be adjusted loaded vehicle weight. The standard set forth in paragraph (a)(1)(iii) of this section refers to the exhaust emitted at curb idle and measured and calculated in accordance with the procedures set forth in subpart P of this part.

(b) Fuel evaporative emissions from 1994 and later model year light-duty trucks shall not exceed:

(1) *Hydrocarbons (for gasoline-fueled light-duty trucks)*. 2.0 grams per test.

(2) *Organic Material Hydrocarbon Equivalent (for methanol-fueled light-duty trucks)*. 2.0 grams per test.

(3) The standards set forth in paragraphs (b) (1) and (2) of this section refer to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1994 and later model year light-duty truck.

(d) The CO, NOx, and particulate standards set forth in paragraphs (d)(1)(ii)(A), (d)(1)(iii), and (d)(1)(iv) of this section, respectively, are applicable only to model year 1994 light-duty trucks certified to the Tier 0 standards of paragraphs (a)(1)(i) and (a)(1)(ii) of this section. The HC, OMHCE, and idle CO standards set forth in paragraphs (d)(1)(i)(A), (d)(1)(i)(B) and (d)(1)(ii)(B) of this section, respectively, are applicable only to model year 1994 light-duty trucks.

(1) Model year 1994 light-duty trucks sold for principal use at a designated high-altitude location shall be capable of meeting the following exhaust emission standards when tested under high-altitude conditions:

(i)(A) *Hydrocarbons (for petroleum-fueled Otto-cycle and diesel light-duty trucks)*. 1.0 grams per vehicle mile (0.62 grams per vehicle kilometer).

(B) *Organic Material Hydrocarbon Equivalent (for methanol-fueled Otto-cycle and diesel light-duty trucks)*. 1.0 gram per vehicle mile (0.62 gram per vehicle kilometer).

(ii) *Carbon Monoxide*. (A) 14 grams per vehicle mile (8.7 grams per vehicle kilometer).

(B) 0.50 percent of exhaust gas flow at curb idle (for Otto-cycle and methanol-fueled diesel light-duty trucks only).

(iii) *Oxides of Nitrogen*. (A) For light-duty trucks up to and including 3,750 lbs. loaded vehicle weight, 1.2 grams per vehicle mile (0.75 grams per vehicle kilometer).

(B) For light-duty trucks 3,751 lbs. and greater loaded vehicle weight, 1.7 grams per vehicle mile (1.1 grams per vehicle kilometer).

(iv) *Particulate (for diesel light-duty trucks only)*. (A) For light-duty trucks up to and including 3,750 lbs. loaded vehicle weight, 0.26 gram per vehicle mile (0.16 gram per vehicle kilometer).

(B) For light-duty trucks 3,751 lbs. and greater loaded vehicle weight, 0.13 gram per vehicle mile (0.08 gram per vehicle kilometer).

(2) The standards set forth in paragraphs (d)(1)(i), (d)(1)(ii)(A), (d)(1)(iii), and (d)(1)(iv) of this section refer to the exhaust emitted over a driving schedule as set forth in subpart B of this part and measured and calculated in accordance with those procedures. The standard set forth in paragraph (d)(1)(ii)(B) of this section refers to the exhaust emitted at curb idle and measured and calculated in accordance with the procedures set forth in subpart P of this part.

(e) Fuel evaporative emissions from 1994 model year light-duty trucks sold for principal use at a designated high-altitude location, when tested under high-altitude conditions, shall not exceed:

(1) *Hydrocarbons (for gasoline-fueled light-duty trucks)*. 2.6 grams per test.

(2) *Organic Material Hydrocarbon Equivalent (for methanol-fueled light-duty trucks)*. 2.6 grams per test.

(3) The standards set forth in paragraphs (e) (1) and (2) of this section refer to a composite sample of the fuel evaporative emissions collected under the conditions set forth in subpart B of

this part and measured in accordance with those procedures.

(f) No crankcase emissions shall be discharged into the ambient atmosphere from any 1994 model year light-duty trucks sold for principal use at a designated high-altitude location.

(g)(1) Any model year 1994 light-duty truck that a manufacturer wishes to certify for sale at low altitude must be capable of meeting high-altitude emission standards (specified in paragraphs (d) through (f) of this section). The manufacturer may specify vehicle adjustments or modifications to allow the vehicle to meet high-altitude standards but these adjustments or modifications may not alter the vehicle's basic engine, inertia weight class, transmission configuration, and axle ratio.

(i) A manufacturer may certify unique configurations to meet the high-altitude standards but is not required to certify these vehicle configurations to meet the low-altitude standards.

(ii) Any adjustments or modifications that are recommended to be performed on vehicles to satisfy the requirements of paragraph (g)(1) of this section:

(A) Shall be capable of being effectively performed by commercial repair facilities, and

(B) Must be included in the manufacturer's application for certification.

(2) Any model year 1995 and later light-duty truck and optionally model year 1994 light-duty truck that a manufacturer wishes to certify for sale shall meet the emission standards of paragraphs (a) through (c) of this section under both low- and high-altitude conditions as specified in § 86.082-2, except as provided in paragraphs (h) and (i) of this section. Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. Any emission control device used to meet emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level.

(h) The manufacturer may exempt 1994 and later model year light-duty trucks from compliance at high altitude with the emission standards set forth in paragraphs (a) and (b) of this section, and may exempt 1994 model year light-duty trucks from compliance with the high-altitude emission standards set forth in paragraphs (d) and (e) of this section, if the vehicles are not intended for sale at high altitude and if the requirements of paragraphs (h)(1) and (2) of this section are met.

(1) A vehicle configuration shall only be considered eligible for exemption under paragraph (h) of this section if the requirements of any of paragraphs (h)(1)(i), (ii), (iii), or (iv) of this section are met.

(i) Its design parameters (displacement-to-weight ratio (D/W) and engine speed-to-vehicle-speed ratio (N/V)) fall within the exempted range for that manufacturer for that year. The exempted range is determined according to the following procedure:

(A) The manufacturer shall graphically display the D/W and N/V data of all vehicle configurations it will offer for the model year in question. The axis of the abscissa shall be D/W (where (D) is the engine displacement expressed in cubic centimeters and (W) is the gross vehicle weight (GVW) expressed in pounds), and the axis of the ordinate shall be N/V (where (N) is the crankshaft speed expressed in revolutions per minute and (V) is the vehicle speed expressed in miles per hour). At the manufacturer's option, either the 1:1 transmission gear ratio or the lowest numerical gear ratio available in the transmission will be used to determine N/V. The gear selection must be the same for all N/V data points on the manufacturer's graph. For each transmission/axle ratio combination, only the lowest N/V value shall be used in the graphical display.

(B) The product line is then defined by the equation, $N/V = C(D/W)^{-0.9}$ where the constant, C, is determined by the requirement that all the vehicle data points either fall on the line or lie to the upper right of the line as displayed on the graphs.

(C) The exemption line is then defined by the equation, $N/V = C(0.84 D/W)^{-0.9}$ where the constant, C, is the same as that found in paragraph (h)(1)(i)(B) of this section.

(D) The exempted range includes all values of N/V and D/W which simultaneously fall to the lower left of the exemption line as drawn on the graph.

(ii) Its design parameters fall within the alternate exempted range for that manufacturer that year. The alternate exempted range is determined by substituting rated horsepower (hp) for displacement (D) in the exemption procedure described in paragraph (h)(1)(i) of this section and by using the product line $N/V = C(hp/W)^{-0.9}$.

(A) Rated horsepower shall be determined by using the Society of Automotive Engineers Test Procedure J 1349 (copies may be obtained from SAE, 400 Commonwealth Dr., Warrendale, PA 15096), or any subsequent version of that test procedure. Any of the horsepower

determinants within that test procedure may be used, as long as it is used consistently throughout the manufacturer's product line in any model year.

(B) No exemptions will be allowed under paragraph (h)(1)(ii) of this section to any manufacturer that has exempted vehicle configurations as set forth in paragraph (h)(1)(i) of this section.

(iii) Its acceleration time (the time it takes a vehicle to accelerate from 0 to a speed not less than 40 miles per hour and not greater than 50 miles per hour) under high-altitude conditions is greater than the largest acceleration time under low-altitude conditions for that manufacturer for that year. The procedure to be followed in making this determination is:

(A) The manufacturer shall list the vehicle configuration and acceleration time under low-altitude conditions of that vehicle configuration which has the highest acceleration time under low-altitude conditions of all the vehicle configurations it will offer for the model year in question. The manufacturer shall also submit a description of the methodology used to make this determination.

(B) The manufacturer shall then list the vehicle configurations and acceleration times under high-altitude conditions of all those vehicle configurations which have higher acceleration times under high-altitude conditions than the highest acceleration time at low altitude identified in paragraph (h)(1)(iii)(A) of this section.

(iv) In lieu of performing the test procedure of paragraph (h)(1)(iii) of this section, its acceleration time can be estimated based on the manufacturer's engineering evaluation, in accordance with good engineering practice, to meet the exemption criteria of paragraph (h)(1)(iii) of this section.

(2) A vehicle shall only be considered eligible for exemption under this paragraph if at least one configuration of its model type (and transmission configuration in the case of vehicles equipped with manual transmissions, excluding differences due to the presence of overdrive) is certified to meet emission standards under high-altitude conditions as specified in paragraphs (a) through (g) of this section. The Certificate of Conformity (the Certificate) covering any exempted configuration(s) will also apply to the corresponding non-exempt configuration(s) required under this subparagraph. As a condition to the exemption, any suspension, revocation, voiding, or withdrawal of the Certificate as it applies to a non-exempt configuration for any reason will result

in a suspension of the Certificate as it applies to the corresponding exempted configuration(s) of that model type, unless there is at least one other corresponding non-exempt configuration of the same model type still covered by the Certificate. The suspension of the Certificate as it applies to the exempted configuration(s) will be terminated when any one of the following occurs:

(i) Another corresponding non-exempt configuration(s) receive(s) coverage under the Certificate; or

(ii) Suspension of the Certificate as it applies to the corresponding non-exempt configuration(s) is terminated; or

(iii) The Agency's action(s), with respect to suspension, revocation, voiding or withdrawal of the Certificate as it applies to the corresponding non-exempt configuration(s), is reversed.

(3) The sale of a vehicle for principal use at a designated high-altitude location that has been exempted as set forth in paragraph (h)(1) of this section will be considered a violation of section 203(a)(1) of the Clean Air Act.

(i)(1) The manufacturers may exempt 1994 and later model year light-duty trucks from compliance at low altitude with the emission standards set forth in paragraphs (a) and (b) of this section if the vehicles:

(i) Are not intended for sale at low altitude; and

(ii) Are equipped with a unique, high-altitude axle ratio (rear-wheel drive vehicles) or a unique, high-altitude drivetrain (front-wheel drive vehicles) with a higher N/V ratio than other configurations of that model type which are certified in compliance with the emission standards of paragraphs (a) and (b) of this section under low-altitude conditions.

(2) The sale of a vehicle for principal use at low altitude that has been exempted as set forth in paragraph (i)(1) of this section will be considered a violation of section 203(a)(1) of the Clean Air Act.

(j) Any light-duty truck that a manufacturer wishes to certify for sale under the provisions of paragraphs (h) or (i) of this section is subject to the provisions of subpart Q of this part.

(Approved by the Office of Management and Budget under control number 2060-0104)

10. A new § 86.094-21 is added to subpart A to read as follows:

§ 86.094-21 Application for certification.

Section 86.094-21 includes text that specifies requirements that differ from § 86.091-21. Where a paragraph in § 86.091-21 is identical and applicable to § 86.094-21, this may be indicated by

specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.091-21." Where a corresponding paragraph of § 86.091-21 is not applicable, this is indicated by the statement "[Reserved]."

(a) through (b)(1) [Reserved]. For guidance see § 86.091-21.

(b)(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles (or engines) for which certification is requested, and, for model year 1994 through 1995 light-duty vehicles and light light-duty trucks and model year 1996 heavy light-duty trucks, data sufficient to determine projected compliance with the Tier 1 standards implementation schedules of § 86.094-8 and § 86.094-9. The data shall also include the altitude of intended sale for model year 1994 light-duty trucks certified to the Tier 0 standards of § 86.094-9. Volume projected to be produced for U.S. sale may be used in lieu of projected U.S. sales.

(3) A description of the test equipment and fuel proposed to be used.

(4)(i) For light-duty vehicles and light-duty trucks, a description of the test procedures to be used to establish the evaporative emission deterioration factors required to be determined and supplied in § 86.094-23(b)(2).

(ii) For heavy-duty vehicles equipped with gasoline-fueled or methanol-fueled engines, the Administrator does not assume that each evaporative emission family-evaporative emission control system combination will deteriorate in a unique manner during the useful life of the vehicle. The manufacturer shall therefore identify those evaporative emission deterioration factors which shall be applied to the various evaporative emission family-evaporative emission control system combinations which are expected to exhibit similar deterioration characteristics during the useful life of the vehicle.

(5)(i)(A) A description of the test procedures to be used to establish the durability data or the exhaust emission deterioration factors required to be determined and supplied in § 86.094-23(b)(1).

(B) For each light-duty truck engine family provided an optional useful life period under the provisions of paragraph (f) of this section, and for each heavy-duty engine family, a statement of the useful life.

(b)(5)(i)(C) through (b)(7) [Reserved]. For guidance see § 86.091-21.

(b)(8) For each light-duty vehicle or light-duty truck engine family, the exhaust emission standards (or family emission limits, if applicable) to which

the engine family is to be certified, and the corresponding exhaust emission standards (or family emission limits, if applicable) which the engine family must meet in-use.

(c) Complete copies of the application and of any amendments thereto, and all notifications under § 86.079-32, § 86.079-33, and § 86.082-34 shall be submitted in such multiple copies as the Administrator may require.

(d) Incomplete light-duty trucks shall have a maximum completed curb weight and maximum completed frontal area specified by the manufacturer.

(e) For vehicles equipped with gasoline-fueled or methanol-fueled heavy-duty engines, the manufacturer shall specify a maximum nominal fuel tank capacity for each evaporative emission family-evaporative emission control system combination.

(f) Light-duty truck and heavy-duty engine manufacturers who believe that the useful life periods of § 86.094-2 are significantly unrepresentative for one or more engine families (either too long or too short), may petition the Administrator to provide an alternative useful-life period. This petition must include the full rationale behind the request together with any supporting data and other evidence. Based on this or other information the Administrator may assign an alternative useful-life period. Any petition should be submitted in a timely manner, to allow adequate time for a thorough evaluation. For model year 1994 and later light-duty trucks not subject to the Tier 0 standards of § 86.094-9, alternative useful life periods will be granted only for THC, OMHCE, and idle CO requirements.

(Approved by the Office of Management and Budget under control number 2060-0104)

11. A new § 86.094-23 is added to subpart A to read as follows:

§ 86.094-23 Required data.

Section 86.094-23 includes text that specifies requirements that differ from § 86.091-23. Where a paragraph in § 86.091-23 is identical and applicable to § 86.094-23, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.091-23." Where a corresponding paragraph of § 86.091-23 is not applicable, this is indicated by the statement "[Reserved]."

(a) The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information: *Provided, however*, That if requested by the manufacturer, the Administrator may waive any requirement of this

section for testing of vehicle (or engine) for which emission data are available or will be made available under the provisions of § 86.091-29.

(b)(1)(i) Exhaust emission durability data on such light-duty vehicles tested in accordance with applicable test procedures and in such numbers as specified, which will show the performance of the systems installed on or incorporated in the vehicle for extended mileage, as well as a record of all pertinent maintenance performed on the test vehicles.

(ii) Exhaust emission deterioration factors for light-duty trucks and heavy-duty engines, and all test data that are derived from the testing described under § 86.094-21(b)(5)(i)(A), as well as a record of all pertinent maintenance. Such testing shall be designed and conducted in accordance with good engineering practice to assure that the engines covered by a certificate issued under § 86.094-30 will meet the emission standards (or family emission limits, as appropriate) in § 86.094-9, § 86.091-10, or § 86.091-11 as appropriate, in actual use for the useful life of the engine.

(2) For light-duty vehicles and light-duty trucks, evaporative emission deterioration factors for each evaporative emission family-evaporative emission control system combination and all test data that are derived from testing described under § 86.094-21(b)(4)(i) designed and conducted in accordance with good engineering practice to assure that the vehicles covered by a certificate issued under § 86.094-30 will meet the evaporative emission standards in § 86.094-8 or § 86.094-9, as appropriate, for the useful life of the vehicle.

(3) For heavy-duty vehicles equipped with gasoline-fueled or methanol-fueled engines, evaporative emission deterioration factors for each evaporative emission family-evaporative emission control system combination identified in accordance with § 86.094-21(b)(4)(ii). Furthermore, a statement that the test procedure(s) used to derive the deterioration factors includes, but need not be limited to, a consideration of the ambient effects of ozone and temperature fluctuations, and the service accumulation effects of vibration, time, and vapor saturation and purge cycling. The deterioration factor test procedure shall be designed and conducted in accordance with good engineering practice to assure that the vehicles covered by a certificate issued under § 86.094-30 will meet the evaporative emission standards in § 86.091-10 and § 86.091-11 in actual use for the useful life of the engine.

Furthermore, a statement that a description of the test procedure, as well as all data, analyses, and evaluations, is available to the Administrator upon request.

(4)(i) For heavy-duty vehicles with a Gross Vehicle Weight Rating of up to 26,000 lbs and equipped with gasoline-fueled or methanol-fueled engines, a written statement to the Administrator certifying that the manufacturer's vehicles meet the standards of § 86.091-10 or § 86.091-11 (as applicable) as determined by the provisions of § 86.091-28. Furthermore, a written statement to the Administrator that all data, analyses, test procedures, evaluations, and other documents, on which the above statement is based, are available to the Administrator upon request.

(ii) For heavy-duty vehicles with a Gross Vehicle Weight Rating of greater than 26,000 lbs and equipped with gasoline-fueled or methanol-fueled engines, a written statement to the Administrator certifying that the manufacturer's evaporative emission control systems are designed, using good engineering practice, to meet the standards of § 86.091-10 or § 86.091-11 (as applicable) as determined by the provisions of § 86.091-28. Furthermore, a written statement to the Administrator that all data, analyses, test procedures, evaluations, and other documents, on which the above statement is based, are available to the Administrator upon request.

(c) *Emission data.* (1) Emission data, including, in the case of methanol fuel, methanol, formaldehyde, and organic material hydrocarbon equivalent, on such vehicles tested in accordance with applicable test procedures and in such numbers as specified. These data shall include zero-mile data, if generated, and emission data generated for certification as required under § 86.090-26(a)(3)(i) or § 86.090-26(a)(3)(ii). In lieu of providing emission data the Administrator may, on request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests, or other information) that the engine will conform with certain applicable emission standards of § 86.094-8 or § 86.094-9. Standards eligible for such manufacturer requests are those for idle CO emissions, smoke emissions, or particulate emissions from methanol-fueled diesel-cycle certification vehicles, and those for particulate emissions from model year 1994 and later gasoline-fueled or methanol-fueled Otto-cycle certification vehicles that are not certified to the Tier 0 standards of § 86.094-9 (a)(1)(i),

(a)(1)(ii), or § 86.094-8(a)(1)(i). Also eligible for such requests are standards for total hydrocarbon emissions from model year 1994 and later certification vehicles that are not certified to the Tier 0 standards of § 86.094-9 (a)(1)(i), (a)(1)(ii) or § 86.094-8(a)(1)(i). By separate request, including appropriate supporting test data, the manufacturer may request that the Administrator also waive the requirement to measure particulate emissions when conducting Selective Enforcement Audit testing of Otto-cycle vehicles.

(c)(2) through (k) [Reserved]. For guidance see § 86.091-23.

(l) Additionally, manufacturers certifying vehicles shall submit for each model year 1994 through 1997 light-duty vehicle and light light-duty truck engine family and each model year 1996 through 1998 heavy light-duty truck engine family:

(1) In the application for certification the projected sales volume of engine families certifying to the respective standards, and the in-use standards that each engine family will meet. Volume projected to be produced for U.S. sale may be used in lieu of projected U.S. sales.

(2) End-of-year reports for each engine family.

(i) These end-of-year reports shall be submitted within 90 days of the end of the model year to: Director, Manufacturers Operations Division (EN-340F), U.S. Environmental Protection Agency, 401 M. Street, SW., Washington, DC 20460.

(ii) These reports shall indicate the model year, engine family and the actual U.S. sales volume. The manufacturer may petition the Administrator to allow volume produced for U.S. sale to be used in lieu of U.S. sales. Such petition shall be submitted within 30 days of the end of the model year to the Manufacturers Operations Division. For the petition to be granted, the manufacturer must establish to the satisfaction of the Administrator that production volume is functionally equivalent to sales volume.

(iii) The U.S. sales volume for end-of-year reports shall be based on the location of the point of sale to a dealer, distributor, fleet operator, broker, or any other entity which comprises the point of first sale.

(iv) Failure by a manufacturer to submit the end-of-year report within the specified time may result in certificate(s) for the engine family(ies) certified to Tier 0 certification standards being voided ab initio plus any applicable civil penalties for failure to submit the required information to the Agency.

(v) These reports shall include the information required under § 86.094-7 (h)(1) of this subpart. The information shall be organized in such a way as to allow the Administrator to determine compliance with the Tier 1 standards implementation schedules of § 86.094-8 and § 86.094-9, and the Tier 1 and Tier I₁ implementation schedules of § 86.708-94 and § 86.709-94.

(Approved by the Office of Management and Budget under control number 2060-0104)

12. A new § 86.094-30 is added to subpart A to read as follows:

§ 86.094-30 Certification.

Section 86.094-30 includes text that specifies requirements that differ from § 86.091-30. Where a paragraph in § 86.091-30 is identical and applicable to § 86.094-30, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]". For guidance see § 86.091-30. Where a corresponding paragraph of § 86.091-30 is not applicable, this is indicated by the statement "[Reserved]."

(a)(1)(i) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.078-7(c) and any other pertinent data or information, the Administrator determines that a test vehicle(s) (or test engine(s)) meets the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) (or engine(s)) except in cases covered by paragraph (a)(1)(ii) of this section and § 86.091-30(c).

(ii) *Gasoline-fueled and methanol-fueled heavy-duty vehicles.* If, after a review of the statement(s) of compliance submitted by the manufacturer under § 86.094-23(b)(4) and any other pertinent data or information, the Administrator determines that the requirements of the Act and this subpart have been met, he will issue one certificate of conformity per manufacturer with respect to the evaporative emission family(ies) covered by § 86.091-30(c).

(2) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary or appropriate to assure that any new motor vehicle (or new motor vehicle engine) covered by the certificate will meet the requirements of the Act and of this part.

(3)(i) One such certificate will be issued for each engine family. For gasoline-fueled and methanol-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for

each engine family evaporative emission family combination.

(A) *Light-duty vehicles.* Each certificate will certify compliance with no more than one set of in-use and certification standards (or family emission limits, as appropriate).

(B) *Light-duty trucks.* Each certificate will certify compliance with no more than one set of in-use and certification standards (or family emission limits, as appropriate), except where there are both low-altitude standards and high altitude standards applicable. The certificate shall state that it covers vehicles sold or delivered to an ultimate purchaser for principal use at a designated high-altitude location only if the vehicle conforms in all material respects to the design specifications that apply to those vehicles described in the application for certification at high altitude.

(a)(3)(ii) through (a)(11) [Reserved]. For guidance see § 86.091-30.

(a)(12) For all light-duty vehicles certified to standards under § 86.094-8 or to which standards under § 86.708-94 are applicable:

(i) All certificates issued are conditional upon the manufacturer complying with all provisions of § 86.094-8 and § 86.708-94 both during and after model year production.

(ii) Failure to meet the required implementation schedule sales percentages as specified in § 86.094-8 and § 86.708-94 will be considered to be a failure to satisfy the conditions upon which the certificate(s) was issued and the vehicles sold in violation of the implementation schedule shall not be covered by the certificate.

(iii) The manufacturer shall bear the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was issued were satisfied.

(13) For all light-duty trucks certified to standards under § 86.094-9 and to which standards under § 86.709-94 are applicable:

(i) All certificates issued are conditional upon the manufacturer complying with all provisions of § 86.094-9 and § 86.709-94 both during and after model year production.

(ii) Failure to meet the required implementation schedule sales percentages as specified in § 86.094-9 and § 86.709-94 will be considered to be a failure to satisfy the conditions upon which the certificate(s) was issued and the individual vehicles sold in violation of the implementation schedule shall not be covered by the certificate.

(iii) The manufacturer shall bear the burden of establishing to the satisfaction of the Administrator that the conditions

upon which the certificate was issued were satisfied.

(b) through (d)(7) [Reserved]. For guidance see § 86.091-30.

(d)(8) Any voiding of the certificate under § 86.091-30(a)(10) will be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.614.

(e) introductory text through (e)(7) [Reserved]. For guidance see § 86.091-30.

(e)(8) Any voiding of the certificate under § 86.091-30 (a)(10) or (a)(11) will be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.1014.

(Approved by the Office of Management and Budget under control numbers 2060-0049 and 2060-0104)

13. A new § 86.094-35 is added to subpart A to read as follows:

§ 86.094-35 Labeling.

Section 86.094-35 includes text that specifies requirements that differ from § 86.092-35. Where a paragraph in § 86.092-35 is identical and applicable to § 86.094-35, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.092-35." Where a corresponding paragraph of § 86.092-35 is not applicable, this is indicated by the statement "[Reserved]."

(a) introductory text through (a)(1)(iii)(E) [Reserved]. For guidance see § 86.092-35.

(a)(1)(iii)(F) The exhaust emission standards (or family emission limits, if applicable) to which the engine family is certified, and the corresponding exhaust emission standards (or family emission limits, if applicable) which the engine family must meet in-use;

(G) For vehicles that have been exempted from compliance with the emission standards at high altitude, as specified in § 86.090-8(h);

(1) A highlighted statement (e.g., underscored or boldface letters) that the vehicle is certified to applicable emission standards at low altitude only,

(2) A statement that the vehicle's unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude, and

(3) A statement that the emission performance warranty provisions of 40 CFR part 85, subpart V do not apply when the vehicle is tested at high altitude;

(H) For vehicles that have been exempted from compliance with the emission standards at low altitude, as specified in § 86.094-8(i);

(1) A highlighted statement (e.g., underscored or boldface letters) that the vehicle is certified to applicable emission standards at high altitude only, and

(2) A statement that the emission performance warranty provisions of 40 CFR part 85, subpart V do not apply when the vehicle is tested at low altitude;

(I) The vacuum hose routing diagram applicable to the vehicles if the vehicles are equipped with vacuum actuated emission and emission-related components. The manufacturer may, at its option, use a separate label for the vacuum hose routing diagram provided that the vacuum hose diagram is placed in a visible and accessible position as provided in this section;

(J) Vehicles granted final admission under § 85.1505 of this chapter must comply with the labeling requirements contained in § 85.1510 of this chapter.

(2) *Light-duty trucks.* (i) A legible permanent label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(A) The label heading: Important Vehicle Information;

(B) Full corporate name and trademark of manufacturer;

(C) Engine displacement (in cubic inches) and engine family identification;

(D) Engine tune-up specifications and adjustments, as recommended by the manufacturer in accordance with the applicable emission standards (or family emission limits, as appropriate), including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any, should be in operation. If adjustments or modifications to the vehicle are necessary to insure compliance with

emission standards (or family emission limits, as appropriate) at either high or low altitude, the manufacturer shall either include the instructions for such adjustments on the label, or indicate on the label where instructions for such adjustments may be found. The label shall indicate whether the engine tune-up or adjustment specifications are applicable to high altitude, low altitude or both;

(E)(1) *Light-duty trucks.* The prominent statement, "This vehicle conforms to U.S. EPA regulations applicable to 19XX Model Year New Light-Duty Trucks."

(2) *Heavy-duty vehicles optionally certified in accordance with the light-duty truck provisions.* The prominent statement, "This heavy-duty vehicle conforms to the U.S. EPA regulations applicable to 19XX Model Year Light-Duty Trucks under the special provision of 40 CFR 86.092-1(b).";

(F) If the manufacturer is provided an alternate useful life period under the provisions of § 86.094-21(f), the prominent statement: "This vehicle has been certified to meet U.S. EPA standards for a useful life period of XXX years or XXX miles of operation, whichever occurs first. This vehicle's actual life may vary depending on its service application." The manufacturer may alter this statement only to express the assigned alternate useful life in terms other than years or miles (e.g., hours, or miles only);

(G) A statement, if applicable, that the adjustments or modifications indicated on the label are necessary to ensure emission control compliance at the altitude specified;

(H) A statement, if applicable, that the high-altitude vehicle was designated or modified for principal use at high altitude. This statement must be affixed by the manufacturer at the time of assembly or by any dealer who performs the high-altitude modification or adjustment prior to sale to an ultimate purchaser;

(I) For vehicles that have been exempted from compliance with the high-altitude emission standards, as specified in § 86.094-9(g)(2):

(1) A highlighted statement (e.g., underscored or boldface letters) that the vehicle is certified to applicable emission standards at low altitude only;

(2) A statement that the vehicle's unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude; and

(3) A statement that the emission performance warranty provisions of 40 CFR part 85, subpart V do not apply when the vehicle is tested at high altitude;

(J) The exhaust emission standards (or family emission limits, if applicable) to which the engine family is certified, and the corresponding exhaust emission standards (or family emission limits, if applicable) which the engine family must meet in-use;

(a)(2)(iii)(K) [Reserved].

(a)(2)(iii)(L) through (a)(3)(iii)(H) [Reserved]. For guidance see § 86.092-35.

(a)(3)(iii)(I) If the manufacturer is provided with an alternate useful life period under the provisions of § 86.094-21(f), the prominent statement: "This engine has been certified to meet U.S. EPA standards for a useful-life period of XXX miles or XXX hours of operation, whichever occurs first. This engine's actual life may vary depending on its service application." The manufacturer may alter this statement only to express the assigned alternate useful life in terms other than miles or hours (e.g., years, or hours only);

(a)(3)(iii)(J) through (b) [Reserved]. For guidance see § 86.092-35.

(c)(1) The manufacturer of any light-duty vehicle or light-duty truck subject to the emission standards (or family emission limits, as appropriate) of this subpart shall, in addition and subsequent to setting forth those statements on the label required by the Department of Transportation (DOT) pursuant to 49 CFR 567.4, set forth on the DOT label or an additional label located in proximity to the DOT label and affixed as described in 49 CFR 567.4(b), the following information in the English language, lettered in block letters and numerals not less than three thirty-seconds of an inch high, of a color that contrasts with the background of the label:

(i) The heading: "Vehicle Emission Control Information."

(ii)(A) *For light-duty vehicles,* The statement: "This Vehicle Conforms to U.S. EPA Regulations Applicable to 19XX Model Year New Motor Vehicles."

(B) *For light-duty trucks,* (1) The statement: "This vehicle conforms to U.S. EPA regulations applicable to 19XX Model Year New Light-Duty Trucks."

(2) If the manufacturer is provided an alternate useful life period under the provisions of § 86.094-21(f), the prominent statement: "This vehicle has been certified to meet U.S. EPA standards for a useful-life period of XX years or XX miles of operation, whichever occurs first. This vehicle's actual life may vary depending on its service application." The manufacturer may alter this statement only to express the assigned alternate useful life in terms other than years or miles (e.g., hours, or miles only).

(iii) One of the following statements, as applicable, in letters and numerals not less than six thirty-seconds of an inch high and of a color that contrasts with the background of the label:

(A) For all vehicles certified as noncatalyst-equipped: "NON-CATALYST";

(B) For all vehicles certified as catalyst-equipped which are included in a manufacturer's catalyst control program for which approval has been given by the Administrator: "CATALYST—APPROVED FOR IMPORT";

(C) For all vehicles certified as catalyst-equipped which are not included in a manufacturer's catalyst control program for which prior approval has been given by the Administrator: "CATALYST".

(2) In lieu of selecting either of the labeling options of paragraph (c)(1) of this section, the manufacturer may add the information required by paragraph (c)(1)(iii) of this section to the label required by paragraph (a) of this section. The required information will be set forth in the manner prescribed by paragraph (c)(1)(iii) of this section.

(d) Incomplete light-duty trucks or incomplete heavy-duty vehicles optionally certified in accordance with the light-duty truck provisions shall have one of the following prominent statements, as applicable, printed on the label required by paragraph (a)(2) of this section in lieu of the statement required by paragraph (a)(2)(iii)(E) of this section.

(1) *Light-duty trucks.* The statement, "This vehicle conforms to U.S. EPA regulations applicable to 19XX Model Year New Light-Duty Trucks when it does not exceed XX pounds in curb weight, XX pounds in gross vehicle weight rating, and XX square feet in frontal area."

(d)(2) through (h) [Reserved]. For guidance see § 86.092-35.

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14. A new § 86.095-14 is added to subpart A to read as follows:

§ 86.095-14 Small-volume manufacturers certification procedures.

Section 86.095-14 includes text that specifies requirements that differ from § 86.092-14. Where a paragraph in § 86.092-14 is identical and applicable to § 86.095-14, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.092-14." Where a corresponding paragraph of § 86.092-14 is not applicable, this is indicated by the statement "[Reserved]."

(a) through (c)(11)(ii)(B)(15) [Reserved]. For guidance see § 86.092-14.

(c)(11)(ii)(B)(16) A description of vehicle adjustments or modifications required by § 86.094-8(j) and 86.094-9(j), if any, to assure that light-duty vehicles and light-duty trucks covered by a certificate of conformity conform to the regulations while being operated at any altitude locations, and a statement of the altitude at which the adjustments or modifications apply.

(17) A description of the light-duty vehicles and light-duty trucks which are exempted from the high-altitude emission standards.

(18) Proof that the manufacturer has obtained or entered an agreement to purchase, when applicable, the insurance policy, required by § 85.1510(b) of this chapter. The manufacturer may submit a copy of the insurance policy or purchase agreement as proof that the manufacturer has obtained or entered an agreement to purchase the insurance policy.

(C) The results of all emission tests the manufacturer performs to demonstrate compliance with the applicable standards.

(D)(1) The following statement signed by the authorized representative of the manufacturer: "The vehicles (or engines) described herein have been tested in accordance with (list of the applicable subparts A, B, D, I, M, N, or P) of part 86, title 40, Code of Federal Regulations, and on the basis of those tests are in conformance with that subpart. All of the data and records required by that subpart are on file and are available for inspection by the EPA Administrator. We project the total U.S. sales of vehicles (engines) subject to this subpart (including all vehicles and engines imported under the provisions of 40 CFR 85.1505 and 40 CFR 85.1509) to be fewer than 10,000 units."

(2) A statement as required by and contained in § 86.092-14(c)(5) signed by the authorized representative of the manufacturer.

(3) A statement that the vehicles or engines described in the manufacturer's application for certification are not equipped with auxiliary emission control devices which can be classified as a defeat device as defined in § 86.092-2 of this subpart.

(4) A statement of compliance with section 206(a)(3) of the Clean Air Act.

(5) A statement that, based on the manufacturer's engineering evaluation and/or emission testing, the light-duty vehicles and light-duty trucks comply with emission standards at high altitude unless exempt under § 86.094-8(h) or § 86.094-9(h) of this subpart.

(c)(11)(ii)(D)(6) [Reserved]

(c)(11)(ii)(D)(7) through (c)(15) [Reserved]. For guidance see § 86.092-14.

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15. A new § 86.095-24 is added to subpart A to read as follows:

§ 86.095-24 Test vehicles and engines.

Section 86.095-24 includes text that specifies requirements that differ from § 86.092-24. Where a paragraph in § 86.092-24 is identical and applicable to § 86.095-24, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.092-24." Where a corresponding paragraph of § 86.092-24 is not applicable, this is indicated by the statement "[Reserved]."

(a) through (b)(1)(iv) [Reserved]. For guidance see § 86.092-24.

(b)(1)(v) For high-altitude exhaust emission compliance for each engine family, the manufacturer shall follow one of the following procedures:

(A) The manufacturer will select for testing under high-altitude conditions the vehicle expected to exhibit the highest emissions from the nonexempt vehicles selected in accordance with § 86.092-24(b)(1)(ii), (iii), and (iv) or,

(B) In lieu of testing vehicles according to paragraph (b)(1)(v)(A) of this section, a manufacturer may provide a statement in its application for certification that, based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate that all light-duty vehicles and light-duty trucks not exempt under § 86.090-8 (h) or § 86.094-9 (h) comply with the emission standards at high altitude.

(vi) If 90 percent or more of the engine family sales will be in California, a manufacturer may substitute emission-data vehicles selected by the California Air Resources Board criteria for the selections specified in paragraphs (b)(1)(i), (ii), and (iv) of this section.

(vii)(A) Vehicles of each evaporative emission family will be divided into evaporative emission control systems.

(B) The Administrator will select the vehicle expected to exhibit the highest evaporative emissions, from within each evaporative family to be certified, from among the vehicles represented by the exhaust emission-data selections for the engine family, unless evaporative testing has already been completed on the vehicle expected to exhibit the highest evaporative emissions for the evaporative family as part of another engine family's testing.

(C) If the vehicles selected in accordance with paragraph (b)(1)(vii)(B) of this section do not represent each evaporative emission control system then the Administrator will select the highest expected evaporative emission vehicle from within the unrepresented evaporative system.

(viii) For high-altitude evaporative emission compliance for each evaporative emission family, the manufacturer shall follow one of the following procedures:

(A) The manufacturer will select for testing under high-altitude conditions the one nonexempt vehicle previously selected under paragraphs (b)(1)(vii) (B) or (C) of this section which is expected to have the highest level of evaporative emissions when operated at high altitude, or

(B) In lieu of testing vehicles according to § 86.092-24 (b)(1)(viii)(A), a manufacturer may provide a statement in its application for certification that, based on the manufacturer's engineering evaluation of such high-altitude emission testing as the manufacturer deems appropriate, that all light-duty vehicles and light-duty trucks not exempt under § 86.090-8 (h) or § 86.094-9 (h) comply with the emission standards at high altitude.

(ix) Vehicles selected under paragraph (b)(1)(v)(A) of this section may be used to satisfy the requirements of paragraph (b)(1)(viii)(A) of this section.

(b)(1)(x) [Reserved].

(b)(2) through (h) [Reserved]. For guidance see § 86.092-24.

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16. A new § 86.095-26 is added to subpart A to read as follows:

§ 86.095-26 Mileage and service accumulation; emission measurements.

Section 86.095-26 includes text that specifies requirements that differ from § 86.092-26. Where a paragraph in § 86.092-26 is identical and applicable to § 86.095-26, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.092-26." Where a corresponding paragraph of § 86.092-26 is not applicable, this is indicated by the statement "[Reserved]."

(a) through (b)(4)(i)(C) [Reserved]. For guidance see § 86.092-26.

(b)(4)(i)(D) For each engine family, the manufacturer will either select one vehicle previously selected under § 86.092-24(b)(1)(i) through (iv) to be tested under high altitude conditions or provide a statement in accordance with § 86.095-24(b)(1)(v) Vehicles shall meet

emission standards under both low- and high-altitude conditions without manual adjustments or modifications. In addition, any emission control device used to conform with the emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4000 feet above sea level.

(ii) *Diesel.* (A) The manufacturer shall determine, for each engine family, the mileage at which the engine-system combination is stabilized for emission-data testing. The manufacturer shall maintain, and provide to the Administrator if requested, a record of the rationale used in making this determination. The manufacturer may elect to accumulate 4,000 miles on each test vehicle within an engine family without making a determination. The manufacturer must accumulate a minimum of 2,000 miles (3,219 kilometers) on each test vehicle within an engine family. All test vehicle mileage must be accurately determined, recorded, and reported to the Administrator. Any vehicle used to represent emission-data vehicle selections under § 86.092-24(b)(1) shall be equipped with an engine and emission control system that has accumulated the mileage the manufacturer chose to accumulate on the test vehicle. Fuel economy data generated from certification vehicles selected in accordance with § 86.092-24(b)(1) with engine-system combinations that have accumulated more than 10,000 kilometers (6,200 miles) shall be factored in accordance with § 600.006-87(c) of this chapter. Complete exhaust emission tests shall be conducted for each emission-data vehicle selection under § 86.092-24(b)(1). The Administrator may determine under § 86.092-24(f) that no testing is required.

(B) Emission tests for emission-data vehicle(s) selected for testing under § 86.092-24 (b)(1)(v) shall be conducted at the mileage (2,000 mile minimum) at which the engine-system combination is stabilized for emission testing or at the 6,436 kilometer (4,000 mile) test point under high-altitude conditions.

(C) Exhaust and evaporative emission tests for emission-data vehicle(s) selected for testing under § 86.092-24 (b)(1) (ii), (iii), and (iv) shall be conducted at the mileage (2,000 mile minimum) at which the engine-system combination is stabilized for emission testing or at the 6,436 kilometer (4,000 mile) test point under low-altitude conditions.

(D) For each engine family, the manufacturer will either select one vehicle previously selected under § 86.092-24(b)(1)(i) through (iv) to be tested under high altitude conditions or

provide a statement in accordance with § 86.095-24(b)(1)(v). Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. In addition, any emission control device used to conform with the emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level. (b)(4)(iii) through (d) [Reserved]. For guidance see § 86.092-26.

(Approved by the Office of Management and Budget under control number 2060-0104)

17. A new § 86.095-30 is added to subpart A to read as follows:

§ 86.095-30 Certification.

Section 86.095-30 includes text that specifies requirements that differ from § 86.091-30. Where a paragraph in § 86.091-30 is identical and applicable to § 86.095-30, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.091-30." Where a corresponding paragraph of § 86.091-30 is not applicable, this is indicated by the statement "[Reserved]."

(a)(1)(i) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 86.078-7(c) and any other pertinent data or information, the Administrator determines that a test vehicle(s) (or test engine(s)) meets the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) (or engine(s)) except in cases covered by paragraph (a)(1)(ii) of this section and § 86.091-30 (c).

(ii) *Gasoline-fueled and methanol-fueled heavy-duty vehicles.* If, after a review of the statement(s) of compliance submitted by the manufacturer under § 86.094-23(b)(4) and any other pertinent data or information, the Administrator determines that the requirements of the Act and this subpart have been met, he will issue one certificate of conformity per manufacturer with respect to the evaporative emission family(ies) covered by § 86.091-30 (c).

(2) Such certificate will be issued for such period not to exceed one model year as the Administrator may determine and upon such terms as he may deem necessary or appropriate to assure that any new motor vehicle (or new motor vehicle engine) covered by the certificate will meet the requirements of the Act and of this part.

(3)(i) One such certificate will be issued for each engine family. For gasoline-fueled and methanol-fueled light-duty vehicles and light-duty trucks, one such certificate will be issued for

each engine family evaporative emission family combination. Each certificate will certify compliance with no more than one set of in-use and certification standards (or family emission limits, as appropriate).

(ii) For gasoline-fueled and methanol-fueled heavy-duty vehicles, one such certificate will be issued for each manufacturer and will certify compliance for those vehicles previously identified in that manufacturer's statement(s) of compliance as required in § 86.094-23(b)(4) (i) and (ii).

(iii) For diesel light-duty vehicles and light-duty trucks, or diesel heavy-duty engines, included in the applicable particulate averaging program, the manufacturer may at any time during production elect to change the level of any family particulate emission limit by demonstrating compliance with the new limit as described in §§ 86.091-28(a)(6) and 86.091-28(b)(5)(i). New certificates issued under this paragraph will be applicable only for vehicles (or engines) produced subsequent to the date of issuance.

(iv) For light-duty trucks or heavy-duty engines included in the applicable NOx averaging program, the manufacturer may at any time during production elect to change the level of any family NOx emission limit by demonstrating compliance with the new limit as described in § 86.091-28(b)(5)(ii). New certificates issued under this paragraph will be applicable only for vehicles (or engines) produced subsequent to the day of issue.

(4)(i) For exempt light-duty vehicles and light-duty trucks under the provisions of § 86.094-8(j) or § 86.094-9(j), an adjustment or modification performed in accordance with instructions provided by the manufacturer for the altitude where the vehicle is principally used will not be considered a violation of section 203(a)(3) of the Clean Air Act.

(ii) A violation of section 203(a)(1) of the Clean Air Act occurs when a manufacturer sells or delivers to an ultimate purchaser any light-duty vehicle or light-duty truck, subject to the regulations under the Act, under any of the conditions specified in paragraph (a)(4)(ii) of this section.

(A) When a light-duty vehicle or light-duty truck is exempted from meeting high altitude requirements as provided in § 86.090-8(h) or 86.094-9(h):

(1) At a designated high altitude location, unless such manufacturer has reason to believe that such vehicle will not be sold to an ultimate purchaser for principal use at a designated high-altitude location; or

(2) At a location other than a designated high altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated high altitude location.

(B) When a light-duty vehicle or light-duty truck is exempted from meeting low-altitude requirements, as provided in § 86.094-8(i) or § 86.094-9(i):

(1) At a designated low-altitude location, unless such manufacturer has reason to believe that such vehicle will not be sold to an ultimate purchaser for principal use at a designated low-altitude location.

(2) At a location other than a designated low-altitude location, when such manufacturer has reason to believe that such motor vehicle will be sold to an ultimate purchaser for principal use at a designated low-altitude location.

(iii) A manufacturer shall be deemed to have reason to believe that a light-duty vehicle or light-duty truck that has been exempted from compliance with emission standards at high altitude, will not be sold to an ultimate purchaser for principal use at a designated high altitude location if the manufacturer has informed its dealers and field representatives about the terms of those high altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but shall not be limited to, either paragraph (a)(4)(iii)(A) or (B) and paragraph (a)(4)(iii)(C) of this section:

(A) Requiring dealers in designated high-altitude locations to submit written statements to the manufacturer signed by the ultimate purchaser that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; requiring dealers in counties contiguous to designated high-altitude locations to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not be used principally at a designated high-altitude location; and for each sale or delivery of fleets of ten or more such vehicles in a high-altitude location or in counties contiguous to high-altitude locations, requiring either the selling dealer or the delivering dealer to submit written statements to the manufacturer, signed by the ultimate purchaser who represents to the dealer in the normal course of business that he or she resides in a designated high-altitude location, that a vehicle which is not configured to meet high-altitude requirements will not

be used principally at a designated high-altitude location. In addition, the manufacturer will make available to EPA, upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold), sales, warranty, or other information pertaining to sales of vehicles by the dealers described above maintained by the manufacturer in the normal course of business relating to the altitude configuration of vehicles and the locations of ultimate purchasers; or

(B) Implementing a system which monitors factory orders of low-altitude vehicles by high-altitude dealers, or through other means, identifies dealers that may have sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser for principal use at a designated high-altitude location; and making such information available to EPA upon reasonable written request (but not more frequently than quarterly, unless EPA has demonstrated that it has substantial reason to believe that an improperly configured vehicle has been sold); and

(C) Within a reasonable time after receiving written notice from EPA or a State or local government agency that a dealer may have improperly sold or delivered a vehicle not configured to meet the high-altitude requirements to an ultimate purchaser residing in a designated high-altitude location, or based on information obtained pursuant to paragraph (a)(4)(iii) of this section that a dealer may have improperly sold or delivered a significant number of such vehicles to ultimate purchasers so residing, reminding the dealer in writing of the requirements of these regulations, and, where appropriate, warning the dealer that sale by the dealer of vehicles not configured to meet high-altitude requirements may be contrary to the terms of its franchise agreement with the manufacturer and the dealer certification requirements of § 85.2108 of this chapter.

(iv) A manufacturer shall be deemed to have reason to believe that a light-duty vehicle or light-duty truck which has been exempted from compliance with emission standards at low altitude, as provided in § 86.094-8(i) or § 86.094-9(i), will not be sold to an ultimate purchaser for principal use at a designated low-altitude location if the manufacturer has informed its dealers and field representatives about the terms of the high-altitude regulations, has not caused the improper sale itself, and has taken reasonable action which shall include, but not be limited to either

§ 86.091-30(a)(4)(iv) (A) or (B) and § 86.091-30(a)(4)(iv)(C):

(a)(4)(iv)(A) through (a)(11) [Reserved]. For guidance see § 86.091-30.

(a)(12) For all light-duty vehicles certified to standards under § 86.094-8 or to which standards under § 86.708-94 are applicable:

(i) All certificates issued are conditional upon the manufacturer complying with all provisions of § 86.094-8 and § 86.708-94 both during and after model year production.

(ii) Failure to meet the required implementation schedule sales percentages as specified in § 86.094-8 and § 86.708-94 will be considered to be a failure to satisfy the conditions upon which the certificate(s) was issued and the vehicles sold in violation of the implementation schedule shall not be covered by the certificate.

(iii) The manufacturer shall bear the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was issued were satisfied.

(13) For all light-duty trucks certified to Tier 0 standards under § 86.094-9 and to which standards under § 86.709-94 are applicable:

(i) All certificates issued are conditional upon the manufacturer complying with all provisions of § 86.094-9 and § 86.709-94 both during and after model year production.

(ii) Failure to meet the required implementation schedule sales percentages as specified in § 86.094-9 and § 86.709-94 will be considered to be a failure to satisfy the conditions upon which the certificate(s) was issued and the individual vehicles sold in violation of the implementation schedule shall not be covered by the certificate.

(iii) The manufacturer shall bear the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was issued were satisfied.

(b) through (d)(7) [Reserved]. For guidance see § 86.091-30.

(d)(8) Any voiding of the certificate under § 86.091-30(a)(10) will be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.614.

(e) introductory text through (e)(7) [Reserved]. For guidance see § 86.091-30.

(e)(8) Any voiding of the certificate under § 86.091-30 (a)(10) or (a)(11) will be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 86.1014.

(Approved by the Office of Management and Budget under control numbers 2060-0049 and 2060-0104)

18. A new § 86.095-35 is added to subpart A to read as follows:

§ 86.095-35 Labeling.

Section 86.095-35 includes text that specifies requirements that differ from § 86.092-35. Where a paragraph in § 86.092-35 is identical and applicable to § 86.095-35, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.092-35." Where a corresponding paragraph of § 86.092-35 is not applicable, this is indicated by the statement "[Reserved]."

(a) introductory text through (a)(1)(iii)(E) [Reserved]. For guidance see § 86.092-35.

(a)(1)(iii)(F) The exhaust emission standards (or family emission limits, if applicable) to which the engine family is certified, and the corresponding exhaust emission standards (or family emission limits, if applicable) which the engine family must meet in-use;

(G) For vehicles that have been exempted from compliance with the emission standards at high altitude, as specified in § 86.090-8(h);

(1) A highlighted statement (e.g., underscored or boldface letters) that the vehicle is certified to applicable emission standards at low altitude only;

(2) A statement that the vehicle's unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude; and

(3) A statement that the emission performance warranty provisions of 40 CFR part 85, subpart V do not apply when the vehicle is tested at high altitude;

(H) For vehicles that have been exempted from compliance with the emission standards at low altitude, as specified in § 86.094-8(i);

(1) A highlighted statement (e.g., underscore or boldface letters) that the vehicle is certified to applicable emission standards at high altitude only; and

(2) A statement that the emission performance warranty provisions of 40 CFR part 85, subpart V do not apply when the vehicle is tested at low altitude;

(I) The vacuum hose routing diagram applicable to the vehicles if the vehicles are equipped with vacuum actuated emission and emission-related components. The manufacturer may, at its option, use a separate label for the vacuum hose routing diagram provided that the vacuum hose diagram is placed in a visible and accessible position as provided in this section;

(J) Vehicles granted final admission under § 85.1505 of this chapter must comply with the labeling requirements contained in § 85.1505 of this chapter;

(K) Vehicles which have been certified under the provisions of § 86.094-8(j) must comply with the labeling requirements contained in § 86.1606.

(2) *Light-duty truck and heavy-duty vehicles optionally certified in accordance with the light-duty truck provisions.* (i) A legible, permanent label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label.

(A) The label heading: Important Vehicle Information;

(B) Full corporate name and trademark of the manufacturer;

(C) Engine displacement (in cubic inches or liters) and engine family identification;

(D) Engine tune-up specifications and adjustments, as recommended by the manufacturer in accordance with the applicable emission standards (or family emission limits, as appropriate), including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any, should be in operation;

(E)(1) *Light-duty trucks.* The prominent statement, "This vehicle conforms to U.S. EPA regulations applicable to 19XX Model Year New Light-Duty Trucks."

(E)(2) *Heavy-duty vehicles optionally certified in accordance with the light-duty truck provisions.* The prominent statement, "This heavy-duty vehicle conforms to the U.S. EPA regulations applicable to 19XX Model Year Light-Duty Trucks under the special provision of 40 CFR 86.092-1(b).";

(F) If the manufacturer is provided an alternate useful life period under the provisions of § 86.094-21(f), the

prominent statement: "This vehicle has been certified to meet U.S. EPA standards for a useful life period of XXX years or XXX miles of operation, whichever occurs first. This vehicle's actual life may vary depending on its service application." The manufacturer may alter this statement only to express the assigned alternate useful life in terms other than years or miles (e.g., hours, or miles only);

(G) For light-duty trucks that have been exempted from compliance with the emission standards at high altitude, as specified in § 86.094-9(h);

(1) A highlighted statement (e.g., underscored or boldface letters) that the vehicle is certified to applicable emission standards at low altitude only;

(2) A statement that the vehicle's unsatisfactory performance under high-altitude conditions makes it unsuitable for principal use at high altitude; and

(3) A statement that the emission performance warranty provisions of 40 CFR part 85, subpart V do not apply when the vehicle is tested at high altitude;

(H) For light-duty trucks that have been exempted from compliance with the emission standards at low altitude, as specified in § 86.094-9(i);

(1) A highlighted statement (e.g., underscored or boldface letters) that the vehicle is certified to applicable emission standards at high altitude only; and

(2) A statement that the emission performance warranty provisions of 40 CFR part 85, subpart V do not apply when the vehicle is tested at low altitude;

(I) Light-duty trucks which have been certified under the provisions of § 86.094-9(j) must comply with the labeling requirements contained in § 86.1606;

(J) The exhaust emission standards (or family emission limits, if applicable) to which the engine family is certified, and the corresponding exhaust emission standards (or family emission limits, if applicable) which the engine family must meet in-use.

(a)(2)(iii)(K) [Reserved].

(a)(2)(iii)(L) through (a)(3)(iii)(H) [Reserved]. For guidance see § 86.092-35.

(a)(3)(iii)(I) If the manufacturer is provided with an alternate useful life period under the provisions of § 86.094-21(f), the prominent statement: "This engine has been certified to meet U.S. EPA standards for a useful-life period of XXX miles or XXX hours of operation, whichever occurs first. This engine's actual life may vary depending on its service application." The manufacturer

may alter this statement only to express the assigned alternate useful life in terms other than miles or hours (e.g., years, or hours only);

(a)(3)(iii)(J) through (b) [Reserved]. For guidance see § 86.092-35.

(c)(1) The manufacturer of any light-duty vehicle or light-duty truck subject to the emission standards (or family emission limits, as appropriate) of this subpart shall, in addition and subsequent to setting forth those statements on the label required by the Department of Transportation (DOT) pursuant to 49 CFR 567.4, set forth on the DOT label or an additional label located in proximity to the DOT label and affixed as described in 49 CFR 567.4(b), the following information in the English language, lettered in block letters and numerals not less than three thirty-seconds of an inch high, of a color that contrasts with the background of the label:

(i) The heading: "Vehicle Emission Control Information."

(ii)(A) For light-duty vehicles, The statement: "This Vehicle Conforms to U.S. EPA Regulations Applicable to 19XX Model Year New Motor Vehicles."

(B) For light-duty trucks, (1) The statement: "This vehicle conforms to U.S. EPA regulations applicable to 19XX Model Year New Light-Duty Trucks."

(2) If the manufacturer is provided an alternate useful life period under the provisions of § 86.094-21(f), the prominent statement: "This vehicle has been certified to meet U.S. EPA standards for a useful-life period of XX years or XX miles of operation, whichever occurs first. This vehicle's

actual life may vary depending on its service application." The manufacturer may alter this statement only to express the assigned alternate useful life in terms other than years or miles (e.g., hours, or miles only).

(iii) One of the following statements, as applicable, in letters and numerals not less than six thirty-seconds of an inch high and of a color that contrasts with the background of the label:

(A) For all vehicles certified as noncatalyst-equipped: "NON-CATALYST";

(B) For all vehicles certified as catalyst-equipped which are included in a manufacturer's catalyst control program for which approval has been given by the Administrator: "CATALYST—APPROVED FOR IMPORT";

(C) For all vehicles certified as catalyst-equipped which are not included in a manufacturer's catalyst control program for which prior approval has been given by the Administrator: "CATALYST".

(2) In lieu of selecting either of the labeling options of paragraph (c)(1) of this section, the manufacturer may add the information required by paragraph (c)(1)(iii) of this section to the label required by paragraph (a) of this section. The required information will be set forth in the manner prescribed by paragraph (c)(1)(iii) of this section.

(d) Incomplete light-duty trucks or incomplete heavy-duty vehicles optionally certified in accordance with the light-duty truck provisions shall have one of the following prominent statements, as applicable, printed on the

label required by paragraph (a)(2) of this section in lieu of the statement required by paragraph (a)(2)(iii)(E) of this section.

(1) *Light-duty trucks.* The statement, "This vehicle conforms to U.S. EPA regulations applicable to 19XX Model Year New Light-Duty Trucks when it does not exceed XX pounds in curb weight, XX pounds in gross vehicle weight rating, and XX square feet in frontal area."

(d)(2) through (h) [Reserved]. For guidance see § 86.092-35.

(Approved by the Office of Management and Budget under control number 2060-0104)

19. A new § 86.096-8 is added to subpart A to read as follows:

§ 86.096-8 Emission standards for 1996 and later model year light-duty vehicles.

Section 86.096-8 includes text that specifies requirements that differ from § 86.090-8. Where a paragraph in § 86.090-8 is identical and applicable to § 86.096-8, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.090-8." Where a corresponding paragraph of § 86.090-8 is not applicable, this is indicated by the statement "[Reserved]."

(a)(1) *Standards.* (i) Exhaust emissions from 1996 and later model year light-duty vehicles shall meet all standards in Tables A96-1 and A96-2 in the rows designated with the applicable fuel type. Light-duty vehicles shall not exceed the applicable standards in Table A96-1 and shall not exceed the applicable standards in Table A96-2.

TABLE A96-1.—INTERMEDIATE USEFUL LIFE STANDARDS (G/M) FOR LIGHT-DUTY VEHICLES

Fuel	THC	NMHC	OMHCE	OMNMHCE	CO	NOx	PM
Gasoline	0.41	0.25			3.4	0.4	0.08
Diesel	0.41	0.25			3.4	1.0	0.08
Methanol			0.41	0.25	3.4	0.4	0.08

TABLE A96-2.—FULL USEFUL LIFE STANDARDS (G/M) FOR LIGHT-DUTY VEHICLES

Fuel	THC	NMHC	OMHCE	OMNMHCE	CO	NOx	PM
Gasoline		0.31			4.2	0.6	0.10
Diesel		0.31			4.2	1.25	0.10
Methanol				0.31	4.2	0.6	0.10

(ii)(A) Vehicles subject to the standards of paragraph (a)(1)(i) of this section shall be all actual U.S. sales of light-duty vehicles of the applicable model year by a manufacturer.

(B) A manufacturer can not use one set of engine families to meet its intermediate useful life standards and

another to meet its full useful life standards. The same families which are used to meet the intermediate useful life standards will be required without deviation to meet the corresponding full useful life standards.

(2) The standards set forth in paragraph (a)(1)(i) of this section refer to

the exhaust emitted over a driving schedule as set forth in subpart B of this part and measured and calculated in accordance with those procedures. The test weight basis for light-duty vehicles, for the purposes of determining equivalent test weight as prescribed in

§ 86.129-94, shall be loaded vehicle weight.

(b) through (h) [Reserved]. For guidance see § 86.090-8.

(i)(1) The manufacturers may exempt 1996 and later model year vehicles from compliance at low altitude with the emission standards set forth in paragraph (a) of this section and § 86.090-8(b) if the vehicles:

(i) Are not intended for sale at low altitude; and

(ii) Are equipped with a unique, high-altitude axle ratio (rear-wheel drive vehicles) or a unique, high-altitude drivetrain (front-wheel drive vehicles) with a higher N/V ratio than other

configurations of that model type which are certified in compliance with the emission standards of paragraph (a) of this section and § 86.090-8(b) under low-altitude conditions.

(2) The sale of a vehicle for principal use at low altitude that has been exempted as set forth in paragraph (i)(1) of this section will be considered a violation of section 203(a)(1) of the Clean Air Act.

(j) Any exempted light-duty vehicle that a manufacturer wishes to certify for sale under the provisions of § 86.090-8 (h) or paragraph (i) of this section is subject to the provisions of subpart Q of this part.

(Approved by the Office of Management and Budget under control number 2060-0104)

20. A new § 86.097-9 is added to subpart A to read as follows:

§ 86.097-9 Emission standards for 1997 and later model year light-duty trucks.

(a)(1) *Standards*—(i) *Light light-duty trucks.* (A) Exhaust emissions from 1997 and later model year light light-duty trucks shall meet all standards in Tables A97-1 and A97-2 in the rows designated with the applicable fuel type and loaded vehicle weight. Light light-duty trucks shall not exceed the applicable standards in Table A97-1 and shall not exceed the applicable standards in Table A97-2.

TABLE A97-1.—INTERMEDIATE USEFUL LIFE STANDARDS (G/Mi) FOR LIGHT LIGHT-DUTY TRUCKS

Fuel	LVW (lbs)	THC	NMHC	OMHCE	OMNMHCE	CO	NOx	PM
Gasoline.....	0-3750		0.25			3.4	0.4	0.08
Gasoline.....	3751-5750		0.32			4.4	0.7	0.08
Diesel.....	0-3750		0.25			3.4	1.0	0.08
Diesel.....	3751-5750		0.32			4.4		0.08
Methanol.....	0-3750				0.25	3.4	0.4	0.08
Methanol.....	3751-5750				0.32	4.4	0.7	0.08

TABLE A97-2.—FULL USEFUL LIFE STANDARDS (G/Mi) FOR LIGHT LIGHT-DUTY TRUCKS

Fuel	LVW (lbs)	THC ¹	NMHC	OMHCE ¹	OMNMHCE	CO	NOx	PM
Gasoline.....	0-3750	0.80	0.31			4.2	0.6	0.10
Gasoline.....	3751-5750	0.80	0.40			5.5	0.97	0.10
Diesel.....	0-3750	0.80	0.31			4.2	1.25	0.10
Diesel.....	3751-5750	0.80	0.40			5.5	0.97	0.10
Methanol.....	0-3750			0.80	0.31	4.2	0.6	0.10
Methanol.....	3751-5750			0.80	0.40	5.5	0.97	0.10

¹ Applicable useful life is 11 years or 120,000 miles, whichever occurs first.

(B)(1) Vehicles subject to the standards of paragraph (a)(1)(i)(A) of this section shall be all actual U.S. sales of light-duty vehicles of the applicable model year by a manufacturer.

(2) A manufacturer can not use one set of engine families to meet its intermediate useful life standards and another to meet its full useful life

standards. The same families which are used to meet the intermediate useful life standards will be required without deviation to meet the corresponding full useful life standards.

(ii) *Heavy light-duty trucks.* (A) Exhaust emissions from 1997 and later model year heavy light-duty trucks shall meet all standards in Tables A97-3 and

A97-4 in the rows designated with the applicable fuel type and adjusted loaded vehicle weight. Heavy light-duty trucks shall not exceed the applicable standards in Table A97-3 and shall not exceed the applicable standards in Table A97-4.

TABLE A97-3.—INTERMEDIATE USEFUL LIFE STANDARDS (G/Mi) FOR HEAVY LIGHT-DUTY TRUCKS

Fuel	ALVW (lbs)	THC	NMHC	OMHCE	OMNMHCE	CO	NOx	PM
Gasoline.....	3751-5750		0.32			4.4	0.7	
Gasoline.....	>5750		0.39			5.0	1.1	
Diesel.....	3751-5750		0.32			4.4		
Diesel.....	>5750		0.39			5.0		
Methanol.....	3751-5750				0.32	4.4	0.7	
Methanol.....	>5750				0.39	5.0	1.1	

TABLE A97-4.—FULL USEFUL LIFE STANDARDS (G/Mi) FOR HEAVY LIGHT-DUTY TRUCKS

Fuel	ALVW (lbs)	THC	NMHC	OMHCE	OMNMHCE	CO	NOx	PM
Gasoline.....	3751-5750	0.80	0.46			6.4	0.98	0.10
Gasoline.....	>5750	0.80	0.56			7.3	1.53	0.12

TABLE A97-4.—FULL USEFUL LIFE STANDARDS (G/Mi) FOR HEAVY LIGHT-DUTY TRUCKS—Continued

Fuel	ALVW (lbs)	THC	NMHC	OMHCE	OMNMHCE	CO	NOx	PM
Diesel	3751-5750	0.80	0.46			6.4	0.98	0.10
Diesel	>5750	0.80	0.56			7.3	1.53	0.12
Methanol	3751-5750			0.80	0.46	6.4	0.98	0.10
Methanol	>5750			0.80	0.56	7.3	1.53	0.12

(B)(1) Vehicles subject to the standards of paragraph (a)(1)(ii)(A) of this section shall be all actual U.S. sales of light-duty vehicles of the applicable model year by a manufacturer.

(2) A manufacturer can not use one set of engine families to meet its intermediate useful life standards and another to meet its full useful life standards. The same families which are used to meet the intermediate useful life standards will be required without deviation to meet the corresponding full useful life standards.

(iii) Exhaust emissions of carbon monoxide from 1997 and later model year light-duty trucks shall not exceed 0.50 percent of exhaust gas flow at curb idle at a useful life of 11 years or 120,000 miles, whichever first occurs (for Otto-cycle and methanol-fueled diesel-cycle light-duty trucks only).

(2) The standards set forth in paragraphs (a)(1)(i) and (a)(1)(ii) of this section refer to the exhaust emitted over a driving schedule as set forth in subpart B of this part and measured and calculated in accordance with those procedures. The test weight basis for light-duty trucks, for the purposes of determining equivalent test weight as prescribed in § 86.129-94, shall be loaded vehicle weight. The test weight basis for heavy light-duty trucks, for the purposes of determining equivalent test weight as prescribed in § 86.129-94, shall be adjusted loaded vehicle weight. The standard set forth in paragraph (a)(1)(iii) of this section refers to the exhaust emitted at curb idle and measured and calculated in accordance with the procedures set forth in subpart P of this part.

(b) Fuel evaporative emissions from 1997 and later model year light-duty trucks shall not exceed:

(1) *Hydrocarbons (for gasoline-fueled light-duty trucks)*. 2.0 grams per test.

(2) *Organic Material Hydrocarbon Equivalent (for methanol-fueled light-duty trucks)*. 2.0 grams per test.

(3) The standards set forth in paragraphs (b) (1) and (2) of this section refer to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1997 and later model year light-duty truck.

(d) through (f) [Reserved]

(g) Any model year 1997 and later light-duty truck that a manufacturer wishes to certify for sale shall meet the emission standards under both low- and high-altitude conditions as specified in § 86.082-2, except as provided in paragraphs (h) and (i) of this section. Vehicles shall meet emission standards under both low- and high-altitude conditions without manual adjustments or modifications. Any emission control device used to meet emission standards under high-altitude conditions shall initially actuate (automatically) no higher than 4,000 feet above sea level.

(h) The manufacturer may exempt 1997 and later model year light-duty trucks from compliance at high altitude with the emission standards set forth in paragraphs (a) and (b) of this section, if the vehicles are not intended for sale at high altitude and if the requirements of paragraphs (h) (1) and (2) of this section are met.

(1) A vehicle configuration shall only be considered eligible for exemption under paragraph (h) of this section if the requirements of any of paragraphs (h)(1) (i), (ii), (iii), or (iv) of this section are met.

(i) Its design parameters (displacement-to-weight ratio (D/W) and engine speed-to-vehicle-speed ratio (N/V)) fall within the exempted range for that manufacturer for that year. The exempted range is determined according to the following procedure:

(A) The manufacturer shall graphically display the D/W and N/V data of all vehicle configurations it will offer for the model year in question. The axis of the abscissa shall be D/W (where (D) is the engine displacement expressed in cubic centimeters and (W) is the gross vehicle weight (GVW) expressed in pounds), and the axis of the ordinate shall be N/V (where (N) is the crankshaft speed expressed in revolutions per minute and (V) is the vehicle speed expressed in miles per hour). At the manufacturer's option, either the 1:1 transmission gear ratio or the lowest numerical gear ratio available in the transmission will be

used to determine N/V. The gear selection must be the same for all N/V data points on the manufacturer's graph. For each transmission/axle ratio combination, only the lowest N/V value shall be used in the graphical display.

(B) The product line is then defined by the equation, $N/V = C(D/W)^{-0.9}$ where the constant, C, is determined by the requirement that all the vehicle data points either fall on the line or lie to the upper right of the line as displayed on the graphs.

(C) The exemption line is then defined by the equation, $N/V = C(0.84 D/W)^{-0.9}$ where the constant, C, is the same as that found in paragraph (h)(1)(i)(B) of this section.

(D) The exempted range includes all values of N/V and D/W which simultaneously fall to the lower left of the exemption line as drawn on the graph.

(ii) Its design parameters fall within the alternate exempted range for that manufacturer that year. The alternate exempted range is determined by substituting rated horsepower (hp) for displacement (D) in the exemption procedure described in paragraph (h)(1)(i) of this section and by using the product line $N/V = C(hp/W)^{-0.9}$.

(A) Rated horsepower shall be determined by using the Society of Automotive Engineers Test Procedure J 1349 (copies may be obtained from SAE, 400 Commonwealth Dr., Warrendale, PA 15096), or any subsequent version of that test procedure. Any of the horsepower determinants within that test procedure may be used, as long as it is used consistently throughout the manufacturer's product line in any model year.

(B) No exemptions will be allowed under paragraph (h)(1)(ii) of this section to any manufacturer that has exempted vehicle configurations as set forth in paragraph (h)(1)(i) of this section.

(iii) Its acceleration time (the time it takes a vehicle to accelerate from 0 to a speed not less than 40 miles per hour and not greater than 50 miles per hour) under high-altitude conditions is greater than the largest acceleration time under low-altitude conditions for that manufacturer for that year. The

procedure to be followed in making this determination is:

(A) The manufacturer shall list the vehicle configuration and acceleration time under low-altitude conditions of that vehicle configuration which has the highest acceleration time under low-altitude conditions of all the vehicle configurations it will offer for the model year in question. The manufacturer shall also submit a description of the methodology used to make this determination.

(B) The manufacturer shall then list the vehicle configurations and acceleration times under high-altitude conditions of all those vehicles configurations which have higher acceleration times under high-altitude conditions than the highest acceleration time at low altitude identified in paragraph (h)(1)(iii)(A) of this section.

(iv) In lieu of performing the test procedure of paragraph (h)(1)(iii) of this section, its acceleration time can be estimated based on the manufacturer's engineering evaluation, in accordance with good engineering practice, to meet the exemption criteria of paragraph (h)(1)(iii) of this section.

(2) A vehicle shall only be considered eligible for exemption under this paragraph if at least one configuration of its model type (and transmission configuration in the case of vehicles equipped with manual transmissions, excluding differences due to the presence of overdrive) is certified to meet emission standards under high-altitude conditions as specified in paragraphs (a) through (g) of this section. The Certificate of Conformity (the Certificate) covering any exempted configuration(s) will also apply to the corresponding non-exempt configuration(s) required under this subparagraph. As a condition to the exemption, any suspension, revocation, voiding, or withdrawal of the Certificate as it applies to a non-exempt configuration for any reason will result in a suspension of the Certificate as it applies to the corresponding exempted configuration(s) of that model type, unless there is at least one other corresponding non-exempt configuration of the same model type still covered by the Certificate. The suspension of the Certificate as it applies to the exempted configuration(s) will be terminated when any one of the following occurs:

(i) Another corresponding non-exempt configuration(s) receive(s) coverage under the Certificate; or

(ii) Suspension of the Certificate as it applies to the corresponding non-exempt configuration(s) is terminated; or

(iii) The Agency's action(s), with respect to suspension, revocation,

voiding or withdrawal of the Certificate as it applies to the corresponding non-exempt configuration(s), is reversed.

(3) The sale of a vehicle for principal use at a designated high-altitude location that has been exempted as set forth in paragraph (h)(1) of this section will be considered a violation of section 203(a)(1) of the Clean Air Act.

(i)(1) The manufacturers may exempt 1997 and later model year light-duty trucks from compliance at low altitude with the emission standards set forth in paragraphs (a) and (b) of this section if the vehicles:

(i) Are not intended for sale at low altitude; and

(ii) Are equipped with a unique, high-altitude axle ratio (rear-wheel drive vehicles) or a unique, high-altitude drivetrain (front-wheel drive vehicles) with a higher N/V ratio than other configurations of that model type which are certified in compliance with the emission standards of paragraphs (a) and (b) of this section under low-altitude conditions.

(2) The sale of a vehicle for principal use at low altitude that has been exempted as set forth in paragraph (i)(1) of this section will be considered a violation of section 203(a)(1) of the Clean Air Act.

(j) Any light-duty truck that a manufacturer wishes to certify for sale under the provisions of paragraphs (h) or (i) of this section is subject to the provisions of subpart Q of this part.

(Approved by the Office of Management and Budget under control number 2060-0104)

Subpart B—[Amended]

21. The table of contents of subpart B of part 86 is republished for the convenience of the reader to read as follows.

Subpart B—Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles and New Light-Duty Trucks; Test Procedures.

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86.101	General applicability.
86.102	Definitions.
86.103	Abbreviations.
86.104	Section numbering; construction.
86.105	Introduction; structure of subpart.
86.106-82	Equipment required; overview.
86.106-90	Equipment required; overview.
86.106-94	Equipment required; overview.
86.107-78	Sampling and analytical system; evaporative emissions.
86.107-90	Sampling and analytical system; evaporative emissions.
86.108-79	Dynamometer.
86.109-82	Exhaust gas sampling system; gasoline-fueled vehicles.
86.109-90	Exhaust gas sampling system; Otto-cycle vehicles.

Sec.	
86.109-94	Exhaust gas sampling system; Otto-cycle vehicles not requiring particulate emissions measurements.
86.110-82	Exhaust gas sampling system; diesel vehicles.
86.110-90	Exhaust gas sampling system; diesel vehicles.
86.110-94	Exhaust gas sampling system; diesel-cycle vehicles, and Otto-cycle vehicles requiring particulate emissions measurements.
86.111-82	Exhaust gas analytical system.
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86.112-82	Weighing chamber (or room) and microgram balance specifications.
86.112-91	Weighing chamber (or room) and microgram balance specifications.
86.113-82	Fuel specifications.
86.113-86	Fuel specifications.
86.113-90	Fuel specifications.
86.114-79	Analytical gases.
86.114-94	Analytical gases.
86.115-78	EPA urban dynamometer driving cycles.
86.116-82	Calibrations, frequency and overview.
86.116-90	Calibrations, frequency and overview.
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86.133-78	Diurnal breathing loss test.
86.133-90	Diurnal breathing loss test.
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86.135-82	Dynamometer procedure.
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86.135-94	Dynamometer procedure.

Sec.

- 86.136-82 Engine starting and restarting.
- 86.136-90 Engine starting and restarting.
- 86.137-8 Dynamometer test run, gaseous and particulate emissions.
- 86.137-90 Dynamometer test run, gaseous and particulate emissions.
- 86.137-94 Dynamometer test run, gaseous and particulate emissions.
- 86.138-78 Hot-soak test.
- 86.138-90 Hot-soak test.
- 86.139-82 Diesel particulate filter handling and weighing.
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- 86.140-82 Exhaust sample analysis.
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- 86.141 [Reserved]
- 86.142-82 Records required.
- 86.142-90 Records required.
- 86.143-78 Calculations; evaporative emissions.
- 86.143-90 Calculations; evaporative emissions.
- 86.144-78 Calculations; exhaust emissions.
- 86.144-90 Calculations; exhaust emissions.
- 86.144-94 Calculations; exhaust emissions.
- 86.145-82 Calculations; particulate emissions.

22. Section 86.105 of subpart B is revised to read as follows:

§ 86.105 Introduction; structure of subpart.

(a) This subpart describes the equipment required and the procedures to follow in order to perform gaseous exhaust, particulate, and evaporative emission tests on light-duty vehicles and light-duty trucks. Subpart A of this part sets forth testing requirements and test intervals necessary to comply with EPA certification procedures. Not all emission measurement techniques described in this subpart will be necessary for all vehicles. Subpart A of this part defines the conditions under which vehicles may be exempted from measuring methane and/or waived from measuring particulate matter.

(b) Three topics are addressed in this subpart. Sections 86.106 through 86.115 set forth specifications and equipment requirements; §§ 86.116 through 86.126 discuss calibration methods and frequency; test procedures and data requirements are listed (in approximate order of performance) in §§ 86.127 through 86.145.

23. A new § 86.106-94 is added to subpart B to read as follows:

§ 86.106-94 Equipment required; overview.

(a) This subpart contains procedures for exhaust emission tests on petroleum-fueled and methanol-fueled light-duty vehicles and light-duty trucks, and for evaporative emission tests on gasoline-fueled and methanol-fueled light-duty vehicles and light-duty trucks. Certain

items of equipment are not necessary for a particular test, e.g., evaporative enclosure when testing diesel-cycle vehicles. Alternate sampling systems and calculation methods may be used if shown to yield equivalent or superior results, and if approved in advance by the Administrator. Equipment required and specifications are as follows:

(1) *Evaporative emission tests, gasoline-fueled and methanol-fueled vehicles.* The evaporative emission test is closely related to and connected with the exhaust emission test. All vehicles tested for evaporative emissions must be tested for exhaust emissions. Further, unless the evaporative emission test is waived by the Administrator under § 86.090-26, all gasoline-fueled and methanol-fueled vehicles must undergo both tests. (Diesel-cycle vehicles are excluded from the evaporative emission standard.) Section 86.107 specifies the necessary equipment.

(2) *Exhaust emission tests.* All vehicles subject to this subpart are subject to testing for both gaseous and particulate exhaust emissions using the CVS concept (§ 86.109), except where exemptions or waivers are expressly provided in subpart A of these regulations. Vehicles subject to the "Tier 0" (i.e., phase-out) standards described under subpart A are exempted from testing for methane emissions. Otto-cycle vehicles subject to the "Tier 0" standards are waived from testing for particulates. For vehicles waived from the requirement for measuring particulate emissions, use of a dilution tunnel is not required (§ 86.109). The CVS must be connected to the dilution tunnel if particulate emission sampling is required (§ 86.110). Petroleum- and methanol-fueled diesel-cycle vehicle testing requires that a PDP-CVS or CFV with heat exchanger be used. (This equipment may be used with methanol-fueled Otto-cycle vehicles; however, particulates need not be measured for vehicles that are waived from the requirement). All gasoline-fueled and methanol-fueled vehicles are either tested for evaporative emissions or undergo a diurnal heat build. Petroleum-fueled diesel-cycle vehicles are excluded from this requirement. Equipment necessary and specifications appear in §§ 86.108 through 86.114.

(3) *Fuel, analytical gas, and driving schedule specifications.* Fuel specifications for exhaust and evaporative emission testing and for mileage accumulation for petroleum-fueled and methanol-fueled vehicles are specified in § 86.113. Analytical gases are specified in § 86.114. The EPA Urban Dynamometer Driving Schedule (UDDS) for use in petroleum-fueled and

methanol-fueled exhaust emission tests is specified in § 86.115 and appendix I to this part.

(b) [Reserved].

24. A new § 86.109-94 is added to subpart B to read as follows:

§ 86.109-94 Exhaust gas sampling system; Otto-cycle vehicles not requiring particulate emission measurements.

(a)(1) *General.* The exhaust gas sampling system described in this paragraph is designed to measure the true mass of gaseous emissions in the exhaust of either Otto-cycle light-duty vehicles or light-duty trucks which are waived from requirements for the measurement of particulate emissions. In the CVS concept of measuring mass emissions, two conditions must be satisfied: the total volume of the mixture of exhaust and dilution air must be measured, and a continuously proportioned volume of sample must be collected for analysis. Mass emissions are determined from the sample concentration and total flow over the test period.

(2) *Vehicle tailpipe to CVS Duct.* For methanol-fueled vehicles, cooling of the exhaust gases in the duct connecting the vehicle tailpipe to the CVS shall be minimized. This may be accomplished by:

(i) Using a duct of unrestricted length maintained at $235 \pm 15^\circ\text{F}$ ($113 \pm 8^\circ\text{C}$), heating and possible cooling capabilities are required; or

(ii) Using a short duct (up to 12 feet long) constructed of smooth wall pipe with a minimum of flexible sections, maintained at $235 \pm 15^\circ\text{F}$ ($113 \pm 8^\circ\text{C}$) prior to the test and during the 10 minute hot soak segment and uninsulated during the test (insulation may remain in place and/or heating may occur during testing provided maximum temperature is not exceeded); or

(iii) Using smooth wall duct less than five feet long with no required heating; or

(iv) Omitting the duct and performing the exhaust gas dilution function at the vehicle tailpipe exit.

(3) *Positive displacement pump.* The Positive Displacement Pump-Constant Volume Sampler (PDP-CVS), Figure B94-1 satisfies the first condition by metering at a constant temperature and pressure through the pump. The total volume is measured by counting the revolutions made by the calibrated positive displacement pump. The proportional samples for the bag sample, and for methanol-fueled vehicles, the methanol sample (Figure B94-2) and the formaldehyde sample (Figure B94-3), are achieved by sampling at a constant flow

rate. For methanol-fueled vehicles, the sample lines for the methanol and formaldehyde samples are heated to $235 \pm 5^\circ\text{F}$ ($113 \pm 8^\circ\text{C}$).

Note: For 1990 through 1994 model year methanol-fueled vehicles, methanol and formaldehyde sampling may be omitted provided the bag sample (hydrocarbons and methanol) is analyzed using a HFID calibrated with methanol.

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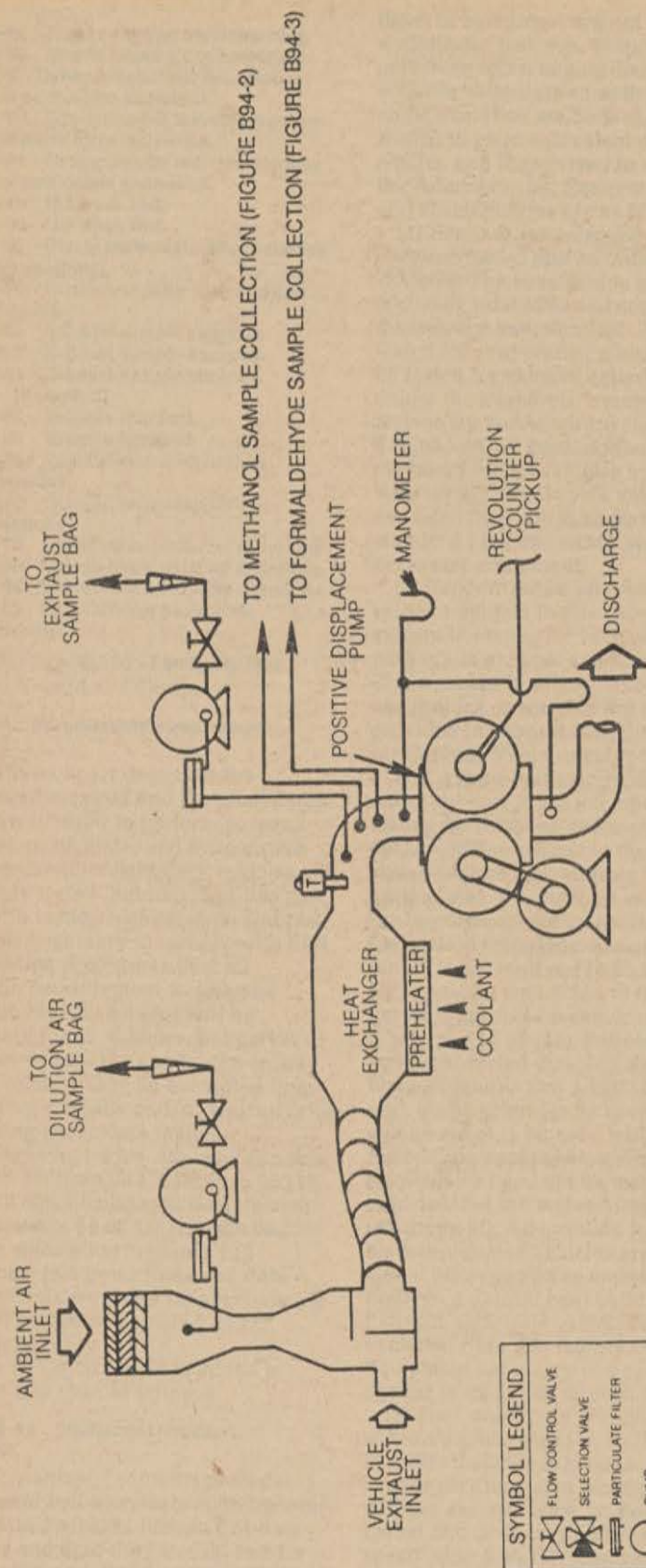


FIGURE B94-1 EXHAUST GAS SAMPLING SYSTEM (PDP-CVS)
(FOR VEHICLES NOT REQUIRING PARTICULATE MEASUREMENT)

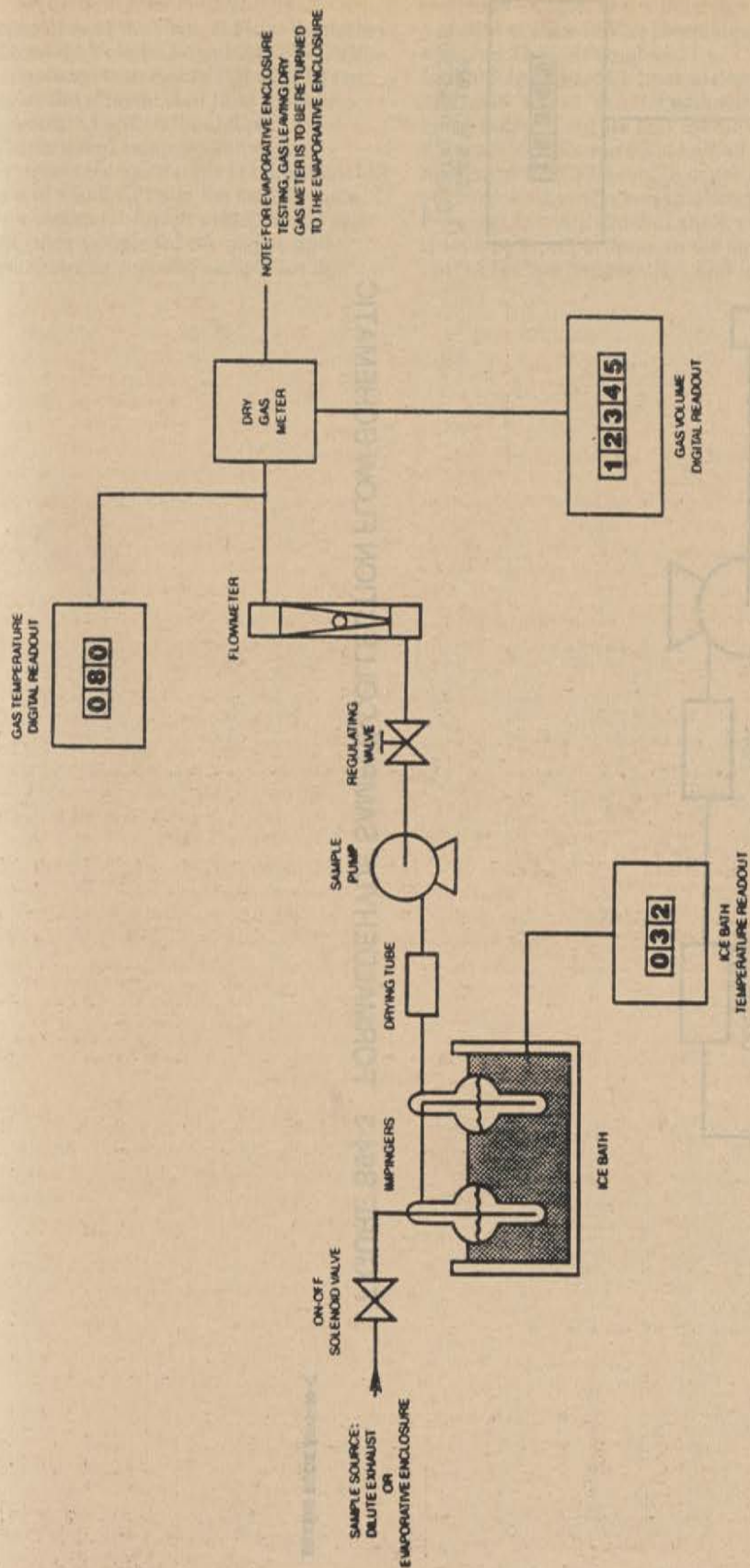


FIGURE B94-2 METHANOL SAMPLE COLLECTION FLOW SCHEMATIC

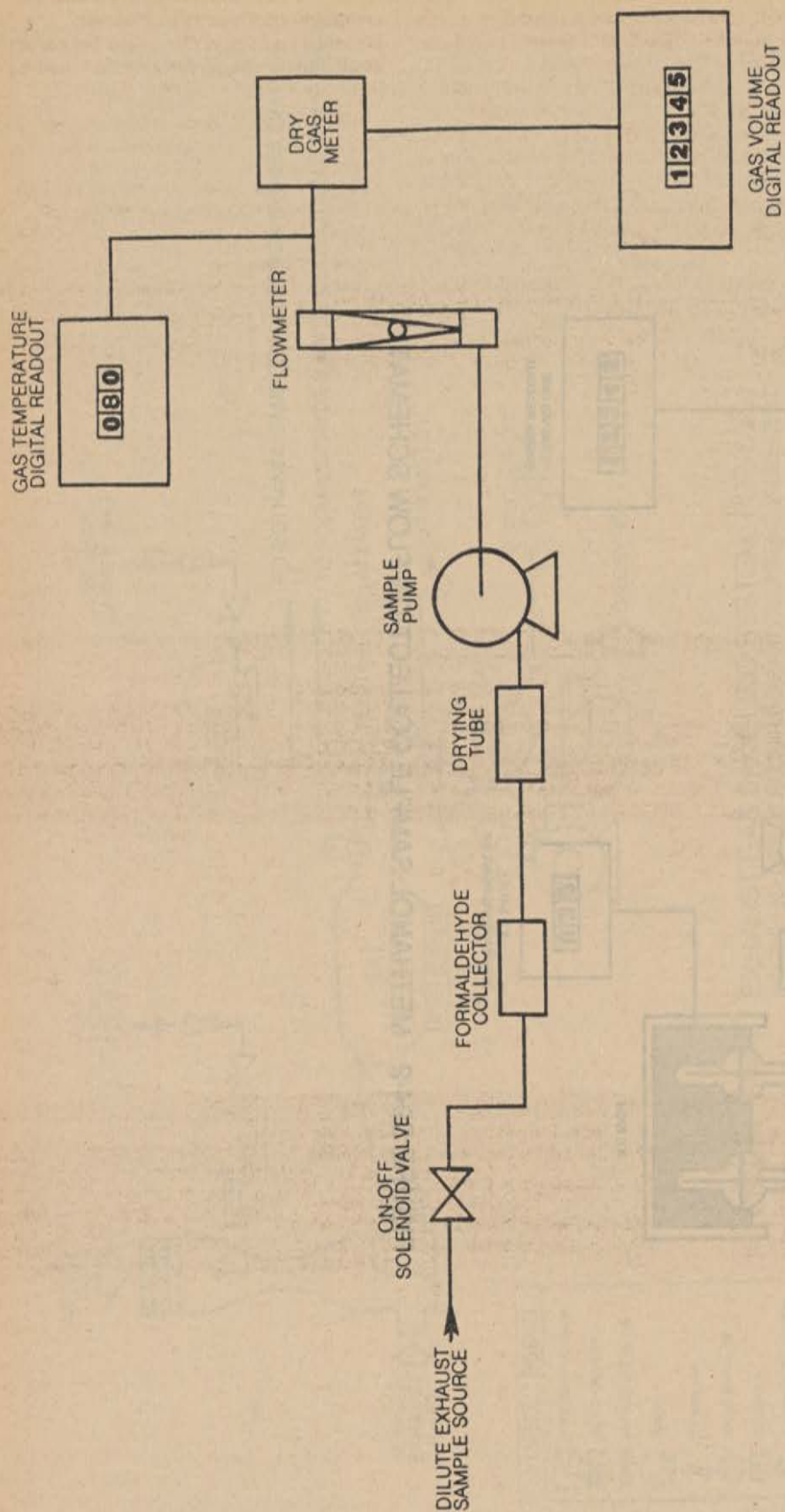


FIGURE B94-3 FORMALDEHYDE SAMPLE COLLECTION FLOW SCHEMATIC

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(4) *Critical flow venturi.* The operation of the Critical Flow Venturi—Constant Volume Sampler (CFV-CVS) sample system, Figure B94-4, is based upon the principles of fluid dynamics associated with critical flow. Proportional sampling throughout temperature excursions is maintained by use of small CFVs in the sample lines (for methanol-fueled vehicles, one line supplies sample for the bag sample, another line supplies sample for the

methanol sample, and a third line supplies sample for the formaldehyde sample.) The methanol and formaldehyde sample lines are heated to $235 \pm 15^\circ\text{F}$ ($113 \pm 8^\circ\text{C}$) with care being taken to ensure that the CFVs of the sample probes are not heated since heating of the CFVs would cause loss of proportionality. The variable mixture flow rate is maintained at sonic velocity, is inversely proportional to the square root of the gas temperature, and is

computed continuously. Since the pressure and temperature are the same at all venturi inlets, the sample volume is proportional to the total volume.

Note: For 1990 through 1994 model year methanol-fueled vehicles, methanol and formaldehyde sampling may be omitted provided the bag sample (hydrocarbons and methanol) is analyzed using a HFID calibrated with methanol.

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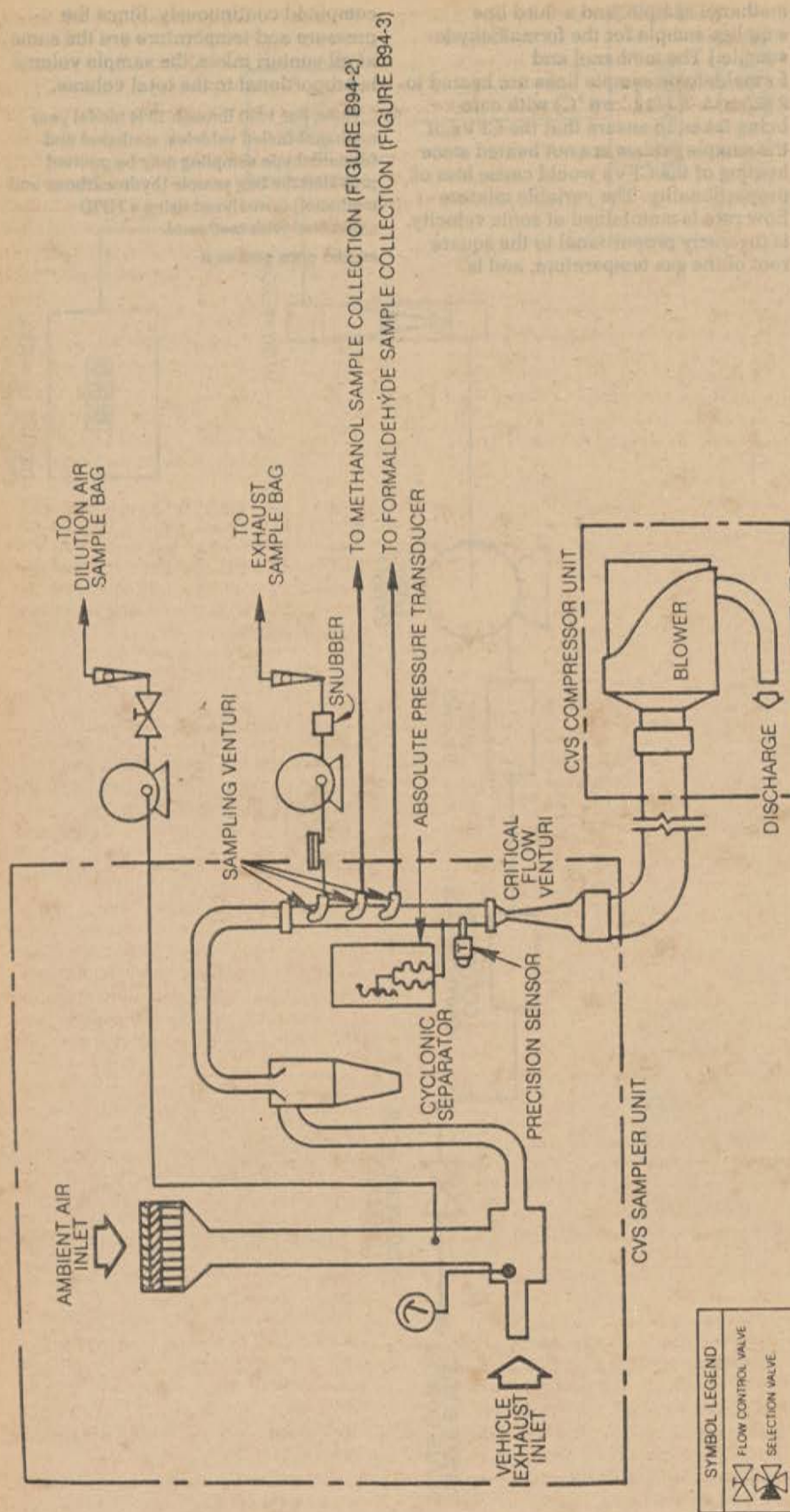


FIGURE B94-4 EXHAUST GAS SAMPLING SYSTEM (CFV-CVS)

(5) *Other systems.* Other sampling systems may be used if shown to yield equivalent or superior results, and if approved in advance by the Administrator.

(b) *Component description, PDP-CVS.* The PDP-CVS, Figure B94-1, consists of a dilution air filter and mixing assembly, heat exchanger, positive displacement pump, sampling systems (see Figure B94-2 for methanol sampling system and Figure B94-3 for formaldehyde sampling system), sampling lines which are heated to $235 \pm 15^\circ\text{F}$ ($113 \pm 8^\circ\text{C}$) in the case of the methanol-fueled vehicles (heating of the sample lines may be omitted, provided the methanol and formaldehyde sample collection systems are close coupled to the probes, thereby preventing loss of sample due to cooling and resulting condensation in the sample lines), and associated valves, pressure and temperature sensors. The PDP-CVS shall conform to the following requirements:

(1) Static pressure variations at the tailpipe(s) of the vehicle shall remain within ± 5 inches of water (1.2 kPa) of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). (Sampling systems capable of maintaining the static pressure to within ± 1 inch of water (0.25 kPa) will be used by the Administrator if a written request substantiates the need for this closer tolerance.)

(2) The gas mixture temperature, measured at a point immediately ahead of the positive displacement pump, shall be within $\pm 10^\circ\text{F}$ ($\pm 5.6^\circ\text{C}$) of the designed operating temperature at the start of the test. The gas mixture temperature variation from its value at the start of the test shall be limited to $\pm 10^\circ\text{F}$ ($\pm 5.6^\circ\text{C}$) during the entire test. The temperature measuring system shall have an accuracy and precision of $\pm 2^\circ\text{F}$ (1.1°C).

(3) The pressure gauges shall have an accuracy and precision of ± 1.6 inches of water (0.4 kPa).

(4) The flow capacity of the CVS shall be large enough to eliminate water condensation in the system. (300 to 350 cfm (0.142 to 0.165 m³/s) is sufficient for most petroleum-fueled vehicles. Higher flow rates are required for methanol-fueled vehicles. Procedures for determining CVS flow rates are detailed in "Calculation of Emissions and Fuel Economy When Using Alternative Fuels," EPA 460/3-83-009. (Copies may be obtained from U.S. Department of Commerce, NTIS, Springfield, Virginia 22161; order #PB 84104702.))

(5) Sample collection bags for dilution air and exhaust samples shall be of sufficient size so as not to impede sample flow. A single dilution air sample, covering the total test period, may be collected for determination of formaldehyde background (methanol-fueled vehicles).

(6) The methanol sample collection system and the formaldehyde sample collection system shall each be of sufficient capacity so as to collect samples of adequate size for analysis without significant impact on the volume of dilute exhaust passing through the PDP.

(c) *Component description, CFV-CVS.* The CFV-CVS sample system, Figure B94-4, consists of a dilution air filter and mixing assembly, a cyclone particulate separator, unheated sampling venturies for the bag samples, and for the methanol and formaldehyde samples from methanol-fueled vehicles, samples lines heated to $235 \pm 15^\circ\text{F}$ ($113 \pm 8^\circ\text{C}$) for the methanol and formaldehyde samples from methanol fueled vehicles (heating of the sample lines may be omitted provided, the methanol and formaldehyde sample collection systems are close coupled to the probes thereby preventing loss of sample due to cooling and resulting condensation in the sample lines), a critical flow venturi, and assorted valves, and pressure and temperature sensors. The CFV sample system shall conform to the following requirements:

(1) Static pressure variations at the tailpipe(s) of the vehicle shall remain within ± 5 inches of water (1.2 kPa) of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). (Sampling systems capable of maintaining the static pressure to within ± 1 inch of water (0.25 kPa) will be used by the Administrator if a written request substantiates the need for this closer tolerance.)

(2) The temperature measuring system shall have an accuracy and precision of $\pm 2^\circ\text{F}$ (1.1°C) and a response time of 0.100 seconds to 62.5 percent of a temperature change (as measured in hot silicone oil).

(3) The pressure measuring system shall have an accuracy and precision of ± 1.6 inches of water (0.4 kPa).

(4) The flow capacity of the CVS shall be large enough to virtually eliminate water condensation in the system (300 to 350 cfm (0.142 to 0.165 m³/s) is sufficient for most petroleum-fueled vehicles). Higher flow rates are required with methanol-fueled vehicles.

Procedures for determining CVS flow rates are detailed in "Calculation of Emission and Fuel Economy When Using Alternative Fuels," EPA 460/3-83-009.

(5) Sample collection bags for dilution air and exhaust samples shall be of sufficient size so as not to impede sample flow. A single dilution air sample covering the total test period may be collected for determination of formaldehyde background for methanol-fueled vehicles.

(6) The methanol sample collection system and the formaldehyde sample collection system shall each be of sufficient capacity so as to collect samples of adequate size for analysis without significant impact on the volume of dilute exhaust passing through the CFV-CVS.

25. A new § 86.110-94 is added to subpart B to read as follows:

§ 86.110-94 Exhaust gas sampling system; diesel-cycle vehicles, and Ottocycle vehicles requiring particulate emissions measurements.

Section 86.110-94 includes text that specifies requirements that differ from § 86.110-90. Where a paragraph in § 86.110-90 is identical and applicable to § 86.110-94, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.110-90." Where a corresponding paragraph of § 86.110-90 is not applicable, this is indicated by the statement "[Reserved]."

(a) *General.* The exhaust gas sampling system described in this paragraph is designed to measure the true mass of both gaseous and particulate emissions in the exhaust of either diesel-cycle or Otto-cycle light-duty vehicles and light-duty trucks. This system utilizes the CVS concept (described in § 86.109) of measuring mass emissions. The mass of gaseous emissions is determined from the sample concentration and total flow over the test period. The mass of particulate emissions is determined from a proportional mass sample collected on a filter and from the total flow over the test period. General requirements are as follows:

(1) This sampling system requires the use of a PDP-CVS or a CFV sample system with heat exchanger connected to a dilution tunnel. Figure B94-5 is a schematic drawing of the PDP system. Figure B94-6 is a schematic drawing of the CFV system.

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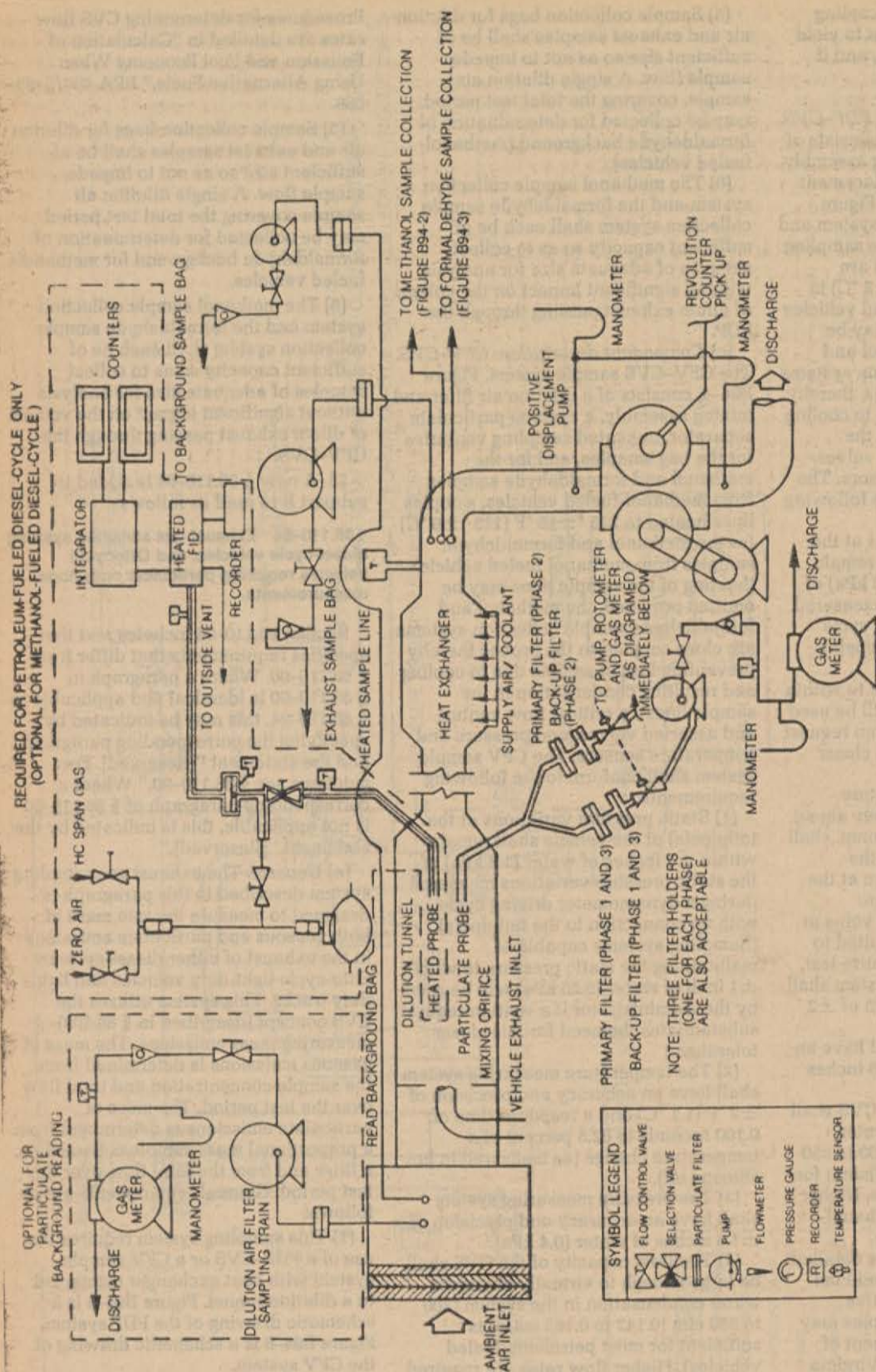


FIGURE B94-5 EXHAUST GAS SAMPLING SYSTEM (PDP-CVS)
(FOR VEHICLES REQUIRING PARTICULATE MEASUREMENT)

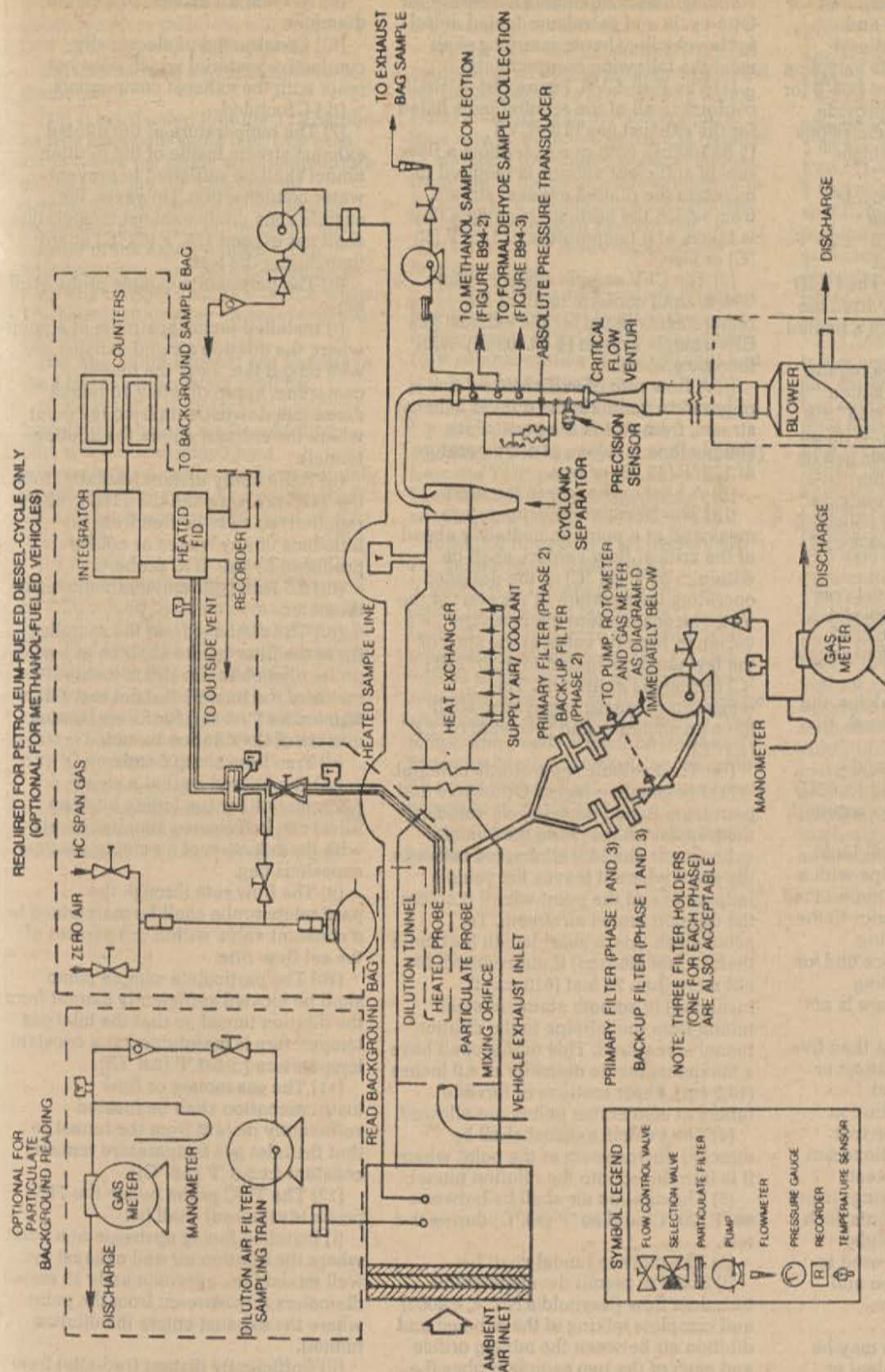


FIGURE B94-6 EXHAUST GAS SAMPLING SYSTEM (CFV-CVS)
(FOR VEHICLES REQUIRING PARTICULATE MEASUREMENT)

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(2) Bag, continuous HFID (required for petroleum-fueled diesel-cycle and optional for methanol-fueled diesel-cycle vehicles), and particulate sampling capabilities as shown in Figure B94-5 (or Figure B94-6) are required to provide both gaseous and particulate emissions sampling capabilities from a single system.

(3) Petroleum-fueled diesel-cycle vehicles require a heated flame ionization detector (HFID) ($375 \pm 20^\circ\text{F}$ ($191 \pm 11^\circ\text{C}$)) sample for total hydrocarbon (THC) analysis. The HFID sample must be taken directly from the diluted exhaust stream through a heated probe in the dilution tunnel.

(4) Methanol-fueled vehicles require the use of a heated flame ionization detector (HFID) ($235 \pm 15^\circ\text{F}$ ($113 \pm 8^\circ\text{C}$)) for hydrocarbon analysis. With an HFID, the hydrocarbon analysis can be made on the bag sample and the methanol and formaldehyde analyses are performed on the samples collected for these purposes (Figures B94-2 and B94-3).

Note: For 1990 through 1994 model year methanol-fueled vehicles, methanol and formaldehyde sampling may be omitted provided the bag sample is analyzed using a HFID calibrated with methanol.

(5) For methanol-fueled vehicles, the vehicle tailpipe-to-dilution tunnel connection shall be made by:

(i) A duct of unrestricted length maintained at $235 \pm 15^\circ\text{F}$ ($113 \pm 8^\circ\text{C}$) through heating and cooling as required; or

(ii) A short duct (up to 12 feet long) constructed of smooth wall pipe with a minimum of flexible sections maintained at $235 \pm 15^\circ\text{F}$ ($113 \pm 8^\circ\text{C}$) prior to the test and during breaks in testing (insulation may remain in place and/or heating may occur during testing provided maximum temperature is not exceeded); or

(iii) A smooth wall duct less than five feet long with no required heating; or

(iv) By omitting the duct and performing the exhaust gas dilution function at the vehicle tailpipe exit.

(6) Since various configurations can produce equivalent results, exact conformance with these drawings is not required. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

(7) Other sampling systems may be used if shown to yield equivalent or superior results and if approved in advance by the Administrator.

(b) *Component description—Otto-cycle and petroleum-fueled diesel-cycle*

vehicles. The components necessary for Otto-cycle and petroleum-fueled diesel-cycle vehicle exhaust sampling shall meet the following requirements:

(1) The PDP-CVS, Figure B94-5, shall conform to all of the requirements listed for the exhaust gas PDP-CVS (§ 86.109(b)), with one exception: a flow rate of sufficient volume is required to maintain the diluted exhaust stream, from which the particulate sample flow is taken, at a temperature of 125°F (52°C) or less.

(2) The CFV sample system, Figure B94-6, shall conform to all of the requirements listed for the exhaust gas CFV sample system (§ 86.109(c)), with four exceptions:

(i) A flow rate of sufficient volume is required to maintain the diluted exhaust stream, from which the particulate sample flow is taken, at a temperature of 125°F (52°C) or less.

(ii) A heat exchanger is required.

(iii) The gas mixture temperature, measured at a point immediately ahead of the critical flow venturi, shall be within $\pm 20^\circ\text{F}$ (11°C) of the designed operating temperature at the start of the test. The gas mixture temperature variation from its value at the start of the test shall be limited to $\pm 20^\circ\text{F}$ (11°C) during the entire test. The temperature measuring system shall have an accuracy and precision of $\pm 2^\circ$ (1.1°C).

(iv) The cyclonic separator is optional.

(3) For gasoline-fueled Otto-cycle and petroleum-fueled diesel-cycle vehicles, the transfer of heat from the vehicle exhaust gas shall be minimized between the point where it leaves the vehicle tailpipe(s) and the point where it enters the dilution tunnel airstream. To accomplish this, a short length (not more than 12 feet (365 cm) if uninsulated, or not more than 20 feet (610 cm) if insulated) of smooth stainless steel tubing from the tailpipe to the dilution tunnel is required. This tubing shall have a maximum inside diameter of 4.0 inches (10.2 cm). Short sections of flexible tubing at connection points are allowed.

(4) The vehicle exhaust shall be directed downstream at the point where it is introduced into the dilution tunnel.

(5) The dilution air shall be between 68°F (20°C) and 86°F (30°C) during the test.

(6) The dilution tunnel shall be:

(i) Sized to permit development of turbulent flow (Reynold's No. < 4000) and complete mixing of the exhaust and dilution air between the mixing orifice and each of the two sample probes (i.e., the particulate probe and the heated THC sample probe). It is recommended that uniform mixing be demonstrated by the user.

(ii) At least 8.0 inches (20.3 cm) in diameter.

(iii) Constructed of electrically conductive material which does not react with the exhaust components.

(iv) Grounded.

(7) The temperature of the diluted exhaust stream inside of the dilution tunnel shall be sufficient to prevent water condensation. However, the sample zone dilute exhaust temperature shall not exceed 125°F (52°C) at any time during the test.

(8) The particulate sample probe shall be:

(i) Installed facing upstream at a point where the dilution air and exhaust are well mixed (i.e., near the tunnel centerline, approximately 10 tunnel diameters downstream from the point where the exhaust enters the dilution tunnel).

(ii) Sufficiently distant (radially) from the THC probe (when the THC probe is required) so as to be free from the influence of any wakes or eddies produced by the THC probe.

(iii) 0.5 inch (1.27 cm) minimum inside diameter.

(iv) The distance from the sampling tip to the filter holder shall be at least 5 probe diameters (for filters located inside of the tunnel), but not more than 40.0 inches (102 cm) for filters located outside of the dilution tunnel.

(v) Free from sharp bends.

(vi) Configured so that a clean particulate filter (including back-up filter) can be selected simultaneously with the selection of an empty gaseous emissions bag.

(9) The flow rate through the particulate probe shall be maintained to a constant value within ± 5 percent of the set flow rate.

(10) The particulate sample pump shall be located sufficiently distant from the dilution tunnel so that the inlet gas temperature is maintained at a constant temperature ($\pm 5.0^\circ\text{F}$ (2.8°C)).

(11) The gas meters or flow instrumentation shall be located sufficiently distant from the tunnel so that the inlet gas temperature remains constant ($\pm 5.0^\circ\text{F}$ (2.8°C)).

(12) The THC probe (when the THC probe is required) shall be:

(i) Installed facing upstream at a point where the dilution air and exhaust are well mixed (i.e., approximately 10 tunnel diameters downstream from the point where the exhaust enters the dilution tunnel).

(ii) Sufficiently distant (radially) from the particulate probe so as to be free from the influence of any wakes or eddies produced by the particulate probe.

(iii) Heated and insulated over the entire length to maintain a $375 \pm 20^\circ\text{F}$ ($191 \pm 11^\circ\text{C}$) wall temperature.

(iv) 0.19 in. (0.48 cm) minimum inside diameter.

(13) It is intended that the THC probe be free from cold spots (i.e., free from spots where the probe wall temperature is less than 355°F). This will be determined by a temperature sensor located on a section of the probe wall outside of the dilution tunnel. The temperature sensor shall be insulated from any heating elements on the probe. The sensor shall have an accuracy and precision of $\pm 2^\circ\text{F}$ (1.1°C).

(14) The dilute exhaust gas flowing in the THC sample system shall be:

(i) At $375 \pm 10^\circ\text{F}$ ($191 \pm 6^\circ\text{C}$) immediately before the heated filter. This will be determined by a temperature sensor located immediately upstream of the filter. The sensor shall have an accuracy and precision of $\pm 2^\circ\text{F}$ (1.1°C).

(ii) At $375 \pm 10^\circ\text{F}$ ($191 \pm 6^\circ\text{C}$) immediately before the HFID. This will be determined by a temperature sensor located at the exit of the heated sample line. The sensor shall have an accuracy and precision of $\pm 2^\circ\text{F}$ (1.1°C).

(15) It is intended that the dilute exhaust gas flowing in the THC sample system be between 365°F and 385°F (185°C and 197°C).

(c) *Component description—methanol-fueled diesel-cycle vehicles.* The components necessary for methanol-fueled diesel-cycle vehicle

exhaust sampling shall meet the following requirements:

(1) The PDP-CVS, Figure B94-5 shall conform to all of the requirements listed for the exhaust gas PDP-CVS (§ 86.109 (a)(3) and (b)), with one exception: a flow rate of sufficient volume is required to maintain the diluted exhaust stream, from which the particulate sample flow is taken, at a temperature of 125°F (52°C) or less and shall prevent the condensation of water vapor in the dilution tunnel.

(2) The CFV sample system, Figure B94-6 shall conform to all of the requirements listed for the exhaust gas CFV sample system (§ 86.109 (a)(4) and (c)), with four exceptions:

(c)(2)(i) through (c)(8)(i) [Reserved]. For guidance see § 86.110-90.

(c)(8)(ii) Sufficiently distant (radially) from the THC probe so as to be free from the influence of any wakes or eddies produced by the THC probe.

(c)(8)(iii) through (c)(12) [Reserved]. For guidance see § 86.110-90.

(c)(13) It is intended that the THC probe be free from cold spots (i.e., free from cold spots where the probe wall temperature is less than 220°F). This will be determined by a temperature sensor located on a section of the probe wall outside of the dilution tunnel. The temperature sensor shall be insulated from any heating elements on the probe. The sensor shall have an accuracy and precision of $\pm 2^\circ\text{F}$ (1.1°C).

(c)(14) through (d) [Reserved]. For guidance see § 86.110-90.

26. A new § 86.111-94 is added to subpart B to read as follows:

§ 86.111-94 Exhaust gas analytical system.

Section 86.111-94 includes text that specifies requirements that differ from § 86.111-90. Where a paragraph in § 86.111-90 is identical and applicable to § 86.111-94, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]". For guidance see § 86.111-90. Where a corresponding paragraph of § 86.111-90 is not applicable, this is indicated by the statement "[Reserved]".

(a) *Schematic drawings.* Figure B94-7 is a schematic drawing of the exhaust gas analytical system for samples from bag sampling systems for analysis of total hydrocarbon (THC) (hydrocarbon plus methanol in the case of methanol-fueled vehicles), methane (CH_4) (for vehicles subject to the NMHC and OMNMHCE standards), carbon monoxide (CO), carbon dioxide (CO_2), and oxides of nitrogen (NO_x). The schematic diagram of the continuous THC analysis train (and for THC plus methanol for methanol-fueled diesel-cycle vehicles) is shown as part of Figure B94-5 (or Figure B94-6). Since various configurations can produce accurate results, exact conformance with either drawing is not required. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

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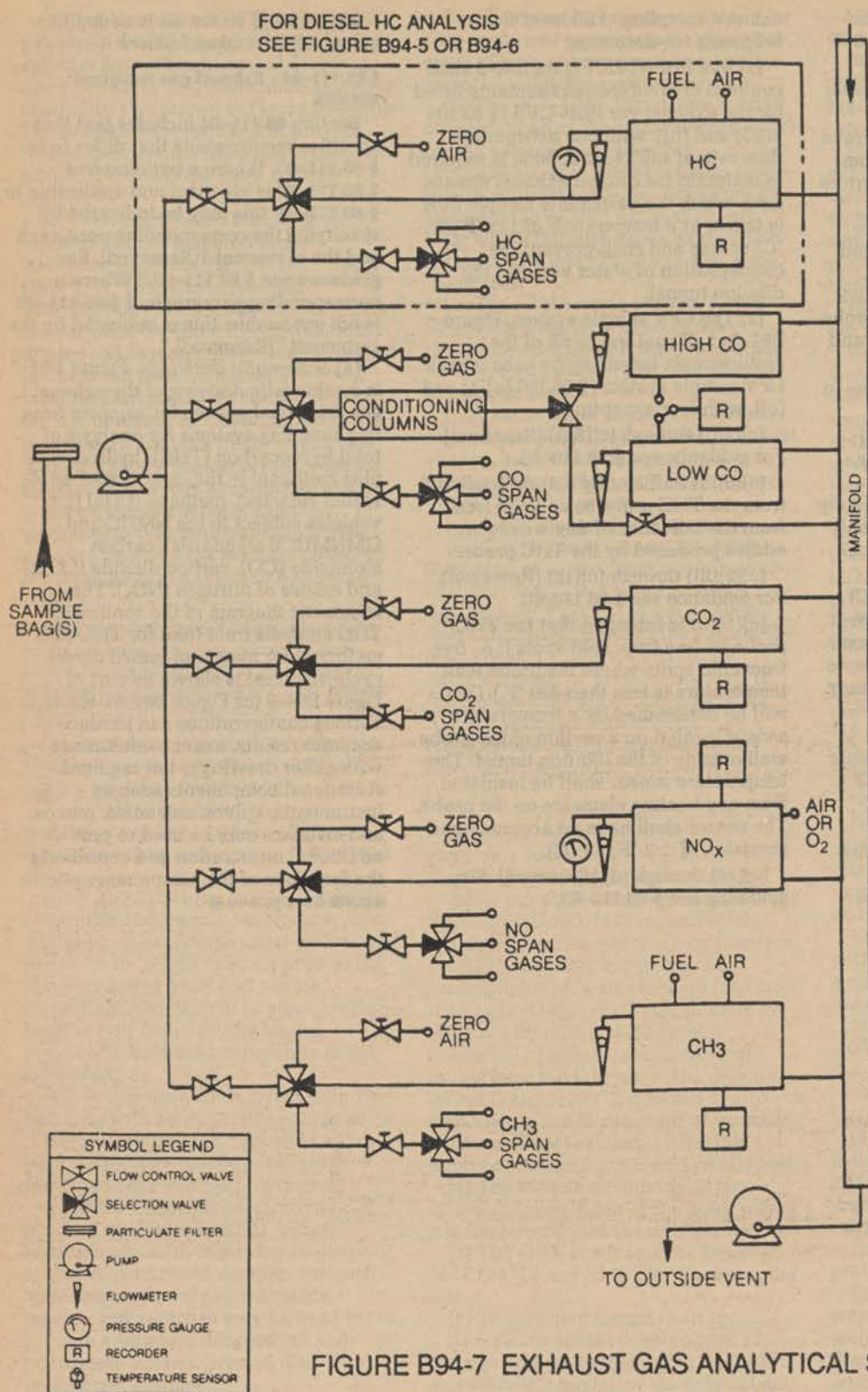


FIGURE B94-7 EXHAUST GAS ANALYTICAL SYSTEM

(b) *Major component description.* The exhaust gas analytical system, Figure B94-7, consists of a flame ionization detector (FID) (heated, $235 \pm 15^\circ\text{F}$ ($113 \pm 8^\circ\text{C}$) for methanol-fueled vehicles) for the determination of THC, a methane analyzer (consisting of a gas chromatograph combined with a FID) for the determination of CH_4 (for vehicles subject to the NMHC and OMNMHCE standards, where applicable), non-dispersive infrared analyzers (NDIR) for the determination of CO and CO_2 and a chemiluminescence analyzer (CL) for the determination of NO_x . A heated flame ionization detector (HFID) is used for the continuous determination of THC from petroleum-fueled diesel-cycle vehicles (may also be used with methanol-fueled diesel-cycle vehicles), Figure B94-5 (or B94-6). The analytical system for methanol consists of a gas chromatograph (GC) equipped with a flame ionization detector. The analysis for formaldehyde is performed using high pressure liquid chromatography (HPLC) of 2,4-dinitrophenylhydrazine (DNPH) derivatives using ultraviolet (UV) detection. The exhaust gas analytical system shall conform to the following requirements:

(1) The CL requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator.

(2) The carbon monoxide (CO) NDIR analyzer may require a sample conditioning column containing CaSO_4 , or indicating silica gel to remove water vapor, and containing ascarite to remove carbon dioxide from the CO analysis stream.

(i) If CO instruments which are essentially free of CO_2 and water vapor interference are used, the use of the conditioning column may be deleted, see §§ 86.122 and 86.144.

(ii) A CO instrument will be considered to be essentially free of CO_2 and water vapor interference if its response to a mixture of 3 percent CO_2 in N_2 which has been bubbled through water at room temperature produces an equivalent CO response, as measured on the most sensitive CO range, which is less than 1 percent of full scale CO concentration on ranges above 300 ppm full scale or less than 3 ppm on ranges below 300 ppm full scale, see § 86.122.

(3) For petroleum-fueled diesel-cycle vehicles (and if selected, for methanol-fueled diesel-cycle vehicles) a continuous THC sample shall be measured using a heated analyzer train as shown in Figure B94-5 (or B94-6). The train shall include a heated probe, a

heated continuous sampling line, a heated particulate filter, and a heated THC instrument (HFID) complete with heated pump, filter, and flow control system.

(i) The response time of this instrument shall be less than 1.5 seconds for 90 percent of full scale response.

(ii) The continuous THC sample system may use an "overflow" zero and span system; see § 86.140-82(b)(4). In this type of system (figures B82-3A and B82-4A), zero or span gas is introduced into the heated sample line at a flow rate that exceeds the sample flow rate to the HFID. The excess gas overflows the sample probe into the dilution tunnel. This method assures that the reference gas enters HFID in the same concentration as the injected reference gas and at the same rate as the sample exhaust gas. In addition to zero and span checks, it may also be used to calibrate the THC analyzer per § 86.121-82(b). The overflow gas flow rate into the sample line shall be greater than 125 percent of the HFID flow rate with the CVS blower operating. A lower flow rate may be used if it has been experimentally shown to produce equivalent results and current documentation is maintained. The overflow gases shall enter the heated sample line as close as practicable to the outside surface of the dilution tunnel.

(iii) No other analyzers may draw a sample from the continuous THC sample probe, line, or system, unless a common sample pump is used of all analyzers and the single sample line system design reflects good engineering practice.

(iv) Sample transport time from sampling point to inlet of instrument shall be less than 4 seconds.

(v) For petroleum-fueled diesel-cycle vehicles, the sample line and filter shall be heated to maintain a sample gas temperature of $375 \pm 10^\circ\text{F}$ ($191 \pm 6^\circ\text{C}$) before the filter and before the HFID.

(vi) For methanol-fueled diesel-cycle vehicles, the sample line and filter shall be heated to maintain a sample gas temperature of $235 \pm 15^\circ\text{F}$ ($113 \pm 8^\circ\text{C}$) before the filter and before the HFID.

(c) *Other analyzers and equipment.* Other types of analyzers and equipment may be used if shown to yield equivalent or superior results and if approved in advance by the Administrator.

27. A new § 86.112-91 is added to subpart B to read as follows:

§ 86.112-91 Weighing chamber (or room) and microgram balance specifications.

(a) *Ambient conditions—(1) Temperature.* The temperature of the chamber in which the particulate filters

are conditioned and weighed shall be maintained to within $\pm 10^\circ\text{F}$ (6°C) of a set point between 68°F (20°C) and 86°F (30°C) during all filter conditioning and filter weighing. A continuous recording of the temperature is required.

(2) *Humidity.* The relative humidity of the chamber in which the particulate filters are conditioned and weighed shall be maintained to within ± 10 percent of a set point between 30 and 70 percent during all filter conditioning and filter weighing. A continuous recording of the temperature is required.

(3) The environment shall be free from any ambient contaminants (such as dust) that would settle on the particulate filters during their stabilization.

(4) It is required that two unused reference filters remain in the weighing room at all times in covered (to reduce dust contamination) but unsealed (to permit humidity exchange) petri dishes. These reference filters shall be placed in the same general area as the sample filters. These reference filters shall be weighed within 4 hours of, but preferably just prior to, the pre- and post-test sample filter weighings.

(5) If the weight of either of the reference filters changes between pre- and post-test sample filter weighings by more than ± 2.0 percent of the test average primary filter loading (recommended minimum of 0.5 milligrams) or ± 0.010 milligrams, whichever is greater, then the post-test sample filter weights are invalid. However, the post-test weighing procedure can be repeated to obtain valid weights within the time limits as specified in § 86.139.

(6) The reference filters shall be changed at least once per month, but never between pre- and post-test weighings of a given sample filter. The reference filters shall be the same size and material as the sample filters.

(b) *Microgram balance specifications.* The microgram balance used to determine the weights of all filters shall have a precision (standard deviation) and a readability of one microgram.

(c) *Other procedures and equipment.* Other procedures and equipment may be used if shown to yield equivalent or superior results and if approved in advance by the Administrator.

28. A new § 86.114-94 is added to subpart B to read as follows:

§ 86.114-94 Analytical gases.

(a) *Analyzer gases.* (1) Gases for the CO and CO_2 analyzers shall be single blends of CO and CO_2 respectively using nitrogen as the diluent.

(2) Gases for the THC analyzer shall be single blends of propane using air as the diluent.

(3) Gases for the methane analyzer shall be single blends of methane using air as the diluent.

(4) Gases for the NO_x analyzer shall be single blends of NO named as NO_x, with a maximum NO₂ concentration of 5 percent of the nominal value, using nitrogen as the diluent.

(5) Fuel for the evaporative emission enclosure FID and the methane analyzer shall be a blend of 40 ± 2% hydrogen with the balance being helium. The mixture shall contain less than 1 ppm equivalent carbon response. 98 to 100 percent hydrogen fuel may be used with advance approval by the Administrator.

(6) The allowable zero gas (air or nitrogen) impurity concentrations shall not exceed 1 ppm equivalent carbon response, 1 ppm carbon monoxide, 0.04 percent (400 ppm) carbon dioxide, and 0.1 ppm nitric oxide.

(7) "Zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

(8) The use of precision blending devices (gas dividers) to obtain the required calibration, as defined below, is acceptable, provided that the calibration curves they produce name a calibration gas within 2 percent of its certified concentration. This verification shall be performed at between 15 and 50 percent of the full scale concentration of the range and shall be included with each gas calibration incorporating a blending device. Alternative procedures to verify the validity of the analyzer calibration curves generated using a gas divider are acceptable provided the procedures are approved in advance by the Administrator.

(b) Calibration gases shall be traceable to within 1 percent of NIST (formerly NBS) gas standards, or other gas standards which have been approved by the Administrator.

(c) Span gases shall be accurate to within 2 percent of true concentration, where true concentration refers to NIST (formerly NBS) gas standards, or other gas standards which have been approved by the Administrator.

29. A new § 86.116-94 is added to subpart B to read as follows:

§ 86.116-94 Calibrations, frequency and overview.

(a) Calibrations shall be performed as specified in § 86.117 through § 86.126.

(b) At least yearly or after any maintenance which could alter background emission levels, evaporative enclosure background emission measurements shall be performed.

(c) At least monthly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Calibrate the THC analyzers (both evaporative and exhaust instruments), methane analyzer, carbon dioxide analyzer, carbon monoxide analyzer, oxides of nitrogen analyzer, methanol analyzer, and formaldehyde analyzer (certain analyzers may require more frequent calibration depending on particular equipment and uses).

(2) Calibrate the dynamometer. If the dynamometer receives a weekly performance check (and remains within calibration) the monthly calibration need not be performed.

(3) Perform a hydrocarbon and methanol (if methanol fuel is used) retention check and calibration on the evaporative emission enclosure.

(4) Calibrate the gas meters or flow instrumentation used for providing total flow measurement for particulate sampling.

(d) At least weekly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Check the oxides of nitrogen converter efficiency, and
(2) Perform a CVS system verification, and

(3) Run a performance check on the dynamometer. This check may be omitted if the dynamometer has been calibrated within the preceding month.

(e) The CVS positive displacement pump or Critical Flow Venturi shall be calibrated following initial installation, major maintenance, or as necessary when indicated by the CVS system verification (described in § 86.119).

(f) Sample conditioning columns, if used in the CO analyzer train, should be checked at a frequency consistent with observed column life or when the indicator of the column packing begins to show deterioration.

30. Section § 86.125-94 is added to subpart B to read as follows:

§ 86.125-94 Methane analyzer calibration.

Prior to introduction into service and monthly thereafter, the methane analyzer shall be calibrated:

(a) Follow the manufacturer's instructions for instrument startup and operation. Adjust the analyzer to optimize performance.

(b) Zero the methane analyzer with zero-grade air.

(c) Calibrate on each normally used operating range with CH₄ in air with nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of that range. Additional calibration points may be generated. For each range calibrated, if

the deviation from a least-squares best-fit straight line is 2 percent or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2 percent at any point, the best-fit non-linear equation which represents the data to within 2 percent of each test point shall be used to determine concentration.

31. A new § 86.127-94 is added to subpart B to read as follows:

§ 86.127-94 Test procedures; overview.

The procedures described in this and subsequent sections are used to determine the conformity of vehicles with the standards set forth in subpart A of this part for light-duty vehicles and light-duty trucks.

(a) The overall test consists of prescribed sequences of fueling, parking, and operating conditions. Vehicles are tested for any or all of the following emissions:

(1) Gaseous exhaust THC, CO, NO_x, CO₂ (for petroleum-fueled vehicles), plus CH₃OH and HCHO for methanol-fueled vehicles, plus CH₄ (for vehicles subject to the NMHC and OMNMHC standards). (Measurement of CH₃OH and HCHO may be omitted for 1990 through 1994 model year methanol-fueled vehicles provided a HFID calibrated on methanol is used for measuring THC plus CH₃OH.)

(2) Particulates.

(3) Evaporative HC (for gasoline-fueled and methanol-fueled vehicles) and CH₃OH (for methanol-fueled vehicles). A separate CH₃OH measurement may be omitted for 1990 through 1994 model year methanol-fueled vehicles provided a HFID calibrated on methanol is used for measuring HC plus CH₃OH.

(b) The Otto-cycle exhaust emission test is designed to determine gaseous THC, CO, CO₂, CH₄, NO_x, and particulate mass emissions from gasoline-fueled and methanol-fueled Otto-cycle vehicles as well as methanol and formaldehyde from methanol-fueled Otto-cycle vehicles, while simulating an average trip in an urban area of 7.5 miles (12.1 kilometers). The test consists of engine startups and vehicle operation on a chassis dynamometer, through a specified driving schedule. A proportional part of the diluted exhaust is collected continuously for subsequent analysis, using a constant volume (variable dilution) sampler or critical flow venturi sampler.

(c) The diesel-cycle exhaust emission test is designed to determine particulate and gaseous mass emissions during a test similar to the test in § 86.127(b). For

petroleum-fueled diesel-cycle vehicles, diluted exhaust is continuously analyzed for THC using a heated sample line and analyzer; the other gaseous emissions (CH₄, CO, CO₂, and NO_x) are collected continuously for analysis as in § 86.127(b). For methanol-fueled vehicles, THC, methanol, formaldehyde, CO, CO₂, CH₄, and NO_x are collected continuously for analysis as in § 86.127(b). THC, methanol, and formaldehyde are collected using heated sample lines, and a heated FID is used for THC analyses. Simultaneous with the gaseous exhaust collection and analysis, particulates from a proportional part of the diluted exhaust are collected continuously on a filter. The mass of particulate is determined by the procedure described in § 86.139. This testing requires a dilution tunnel as well as the constant volume sampler.

(d) The evaporative emission test (gasoline-fueled vehicles and methanol-fueled vehicles) is designed to determine hydrocarbon and methanol evaporative emissions as a consequence of diurnal temperature fluctuation, urban driving, and hot soaks during parking. It is associated with a series of events representative of a motor vehicle's operation, which result in hydrocarbon and/or methanol vapor losses. The test procedure is designed to measure:

(1) Diurnal breathing losses resulting from daily temperature changes, measured by the enclosure technique;

(2) Running losses from suspected sources (if indicated by engineering analysis or vehicle inspection) resulting from a simulated trip on a chassis dynamometer, measured by carbon traps; and

(3) Hot soak losses, which result when the vehicle is parked and the hot engine is turned off, measured by the enclosure technique.

(e) Except in cases of component malfunction or failure, all emission control systems installed on or incorporated in a new motor vehicle shall be functioning during all procedures in this subpart. Maintenance to correct component malfunction or failure shall be authorized in accordance with § 86.090-25.

32. A new § 86.129-94 is added to subpart B to read as follows:

§ 86.129-94 Road load power test weight and inertia weight class determination.

Section 86.129-94 includes text that specifies requirements that differ from § 86.129-80. Where a paragraph in § 86.129-80 is identical and applicable to § 86.129-94, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.129-80." Where a

corresponding paragraph of § 86.129-80 is not applicable, this is indicated by the statement "[Reserved]."

(a) Flywheels, electrical, or other means of simulating test weight as shown in the following table shall be used. If the equivalent test weight specified is not available on the dynamometer being used, the next higher equivalent test weight (not to exceed 250 pounds) available shall be used.

Road load power at 50 mi/hour light-duty trucks ^{1,2,3}	Test weight basis ^{4,5}	Equivalent test weight (pounds)	Inertia weight class (pounds)
.....	Up to 1,062.....	1,000	1,000
.....	1,063 to 1,187.....	1,125	1,000
.....	1,188 to 1,312.....	1,250	1,250
.....	1,313 to 1,437.....	1,375	1,250
.....	1,438 to 1,562.....	1,500	1,500
.....	1,563 to 1,687.....	1,625	1,500
.....	1,688 to 1,812.....	1,750	1,750
.....	1,813 to 1,937.....	1,875	1,750
.....	1,938 to 2,062.....	2,000	2,000
.....	2,063 to 2,187.....	2,125	2,000
.....	2,188 to 2,312.....	2,250	2,250
.....	2,313 to 2,437.....	2,375	2,250
.....	2,438 to 2,562.....	2,500	2,500
.....	2,563 to 2,687.....	2,625	2,500
.....	2,688 to 2,812.....	2,750	2,750
.....	2,813 to 2,937.....	2,875	2,750
.....	2,938 to 3,062.....	3,000	3,000
.....	3,063 to 3,187.....	3,125	3,000
.....	3,188 to 3,312.....	3,250	3,000
.....	3,313 to 3,437.....	3,375	3,500
.....	3,438 to 3,562.....	3,500	3,500
.....	3,563 to 3,687.....	3,625	3,500
.....	3,688 to 3,812.....	3,750	3,500
.....	3,813 to 3,937.....	3,875	4,000
.....	3,938 to 4,125.....	4,000	4,000
.....	4,126 to 4,375.....	4,250	4,000
.....	4,376 to 4,625.....	4,500	4,500
.....	4,626 to 4,875.....	4,750	4,500
.....	4,876 to 5,125.....	5,000	5,000
.....	5,126 to 5,375.....	5,250	5,000
.....	5,376 to 5,750.....	5,500	5,500
.....	5,751 to 6,250.....	6,000	6,000
.....	6,251 to 6,750.....	6,500	6,500
.....	6,751 to 7,250.....	7,000	7,000
.....	7,251 to 7,750.....	7,500	7,500
.....	7,751 to 8,250.....	8,000	8,000
.....	8,251 to 8,750.....	8,500	8,500
.....	8,751 to 9,250.....	9,000	9,000
.....	9,251 to 9,750.....	9,500	9,500
.....	9,751 to 10,000.....	10,000	10,000

¹ For all light-duty trucks except vans, and for heavy duty vehicles optionally certified as light-duty trucks, the road load power (horsepower) at 50 mi/h shall be 0.58 times B (defined below) rounded to the nearest 1/2 hp.

² For vans, the road load power at 50 mi/h (horsepower) shall be 0.50 times B (defined below) rounded to the nearest 1/2 hp.

³ B is the basic vehicle frontal area (square foot) plus the additional frontal area (square foot) of mirrors and optional equipment exceeding 0.1 ft² which are anticipated to be sold on more than 33 pct. of the car line. Frontal area measurements shall be computed to the nearest 10th of a square foot using a method approved in advance by the administrator.

⁴ For model year 1994 and later heavy light-duty trucks not subject to the Tier 0 standards of § 86.094-9 of subpart A, test weight basis shall be adjusted loaded vehicle weight, as defined in § 86.094-2 of subpart A. For all other vehicles, test weight basis shall be loaded vehicle weight, as defined in § 86.082-2 of subpart A.

⁵ Light-duty vehicles over 5,750 lb. loaded vehicle weight shall be tested at a 5,500 lb. equivalent test weight.

(b) through (c) [Reserved]. For guidance see § 86.129-80.

33. A new § 86.135-94 is added to subpart B to read as follows:

§ 86.135-94 Dynamometer procedure.

Section 86.135-94 includes text that specifies requirements that differ from § 86.135-90. Where a paragraph in § 86.135-90 is identical and applicable to § 86.135-94, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.135-90." Where a corresponding paragraph of § 86.135-90 is not applicable, this is indicated by the statement "[Reserved]."

(a) *Overview.* The dynamometer run consists of two tests, a "cold" start test, after a minimum 12-hour and a maximum 36-hour soak according to the provisions of §§ 86.132 and 86.133, and a "hot" start test following the "cold" start by 10 minutes. Engine startup (with all accessories turned off), operation over the UDDS, and engine shutdown make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with ambient air in the dilution tunnel as shown in Figure B94-5 and Figure B94-6. A dilution tunnel is not required for testing vehicles waived from the requirement to measure particulates. Six particulate samples are collected on filters for weighing; the first sample plus back-up is collected during the first 505 seconds of the cold start test; the second sample plus back-up is collected during the remainder of the cold start test (including shutdown); the third sample plus back-up is collected during the hot start test. Continuous proportional samples of gaseous emissions are collected for analysis during each test phase. For gasoline-fueled Otto-cycle vehicles, the composite samples collected in bags are analyzed for THC, CO, CO₂, CH₄, and NO_x. For petroleum-fueled diesel-cycle vehicles (optional for methanol-fueled diesel-cycle vehicles), THC is sampled and analyzed continuously according to the provisions of § 86.110. Parallel samples of the dilution air are similarly analyzed for THC, CO, CO₂, CH₄, and NO_x. For methanol-fueled vehicles, bag samples are collected and analyzed for THC (if not sampled continuously), CO, CO₂, CH₄, and NO_x. Methanol and formaldehyde samples are taken for both exhaust emissions and dilution air (a single dilution air formaldehyde sample, covering the total test period may be collected). Parallel bag samples of dilution air are analyzed for THC, CO, CO₂, CH₄, and NO_x. Methanol and

formaldehyde samples may be omitted for 1990 through 1994 model years when a FID calibrated on methanol is used.

(b) through (i) [Reserved]. For guidance see § 86.135-90.

(Approved by the Office of Management and Budget under control number 2060-0104)

34. A new § 86.137-94 is added to subpart B to read as follows:

§ 86.137-94 Dynamometer test run, gaseous and particulate emissions.

Section 86.137-94 includes text that specifies requirements that differ from § 86.137-90. Where a paragraph in § 86.137-90 is identical and applicable to § 86.137-94, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]". For guidance see § 86.137-90. Where a corresponding paragraph of § 86.137-90 is not applicable, this is indicated by the statement "[Reserved]".

(a) *General.* The dynamometer run consists of two tests, a cold start test, after a minimum 12-hour and a maximum 36-hour soak according to the provisions of § 86.132, and a hot start test following the cold start test by 10 minutes. The vehicle shall be stored prior to the emission test in such a manner that precipitation (e.g., rain or dew) does not occur on the vehicle. The complete dynamometer test consists of a cold start drive of 7.5 miles (12.1 km) and simulates a hot start drive of 7.5 miles (12.1 km). The vehicle is allowed to stand on the dynamometer during the 10 minute time period between the cold and hot start tests. The cold start test is divided into two periods. The first period, representing the cold start "transient" phase, terminates at the end of the deceleration which is scheduled to occur at 505 seconds of the driving schedule. The second period, representing the "stabilized" phase, consists of the remainder of the driving schedule including engine shutdown. The hot start test, similarly, consists of two periods. The first period, representing the hot start "transient" phase, terminates at the same point in driving schedule as the first period of the cold start test. The second period of the hot start test, "stabilized" phase, is assumed to be identical to the second period of the cold start test. Therefore, the hot start test terminates after the first period (505 seconds) is run.

(b) The following steps shall be taken for each test:

(1) Place drive wheels of vehicle on dynamometer without starting engine.

(2) Open the vehicle engine compartment cover and position the cooling fan.

(3) For all vehicles, with the sample selector valves in the "standby"

position, connect evacuated sample collection bags to the dilute exhaust and dilution air sample collection systems.

(4) For methanol-fueled vehicles, with the sample selector valves in the "standby" position, insert fresh sample collection impingers into the methanol sample collection system, the formaldehyde sample collection system, and fresh impingers (or capsules for formaldehyde) into the dilution air sample collection systems for methanol and formaldehyde (may be omitted for 1990 through 1994 model years).

(5) Start the CVS (if not already on), the sample pumps (except the particulate sample pump, if applicable), the temperature recorder, the vehicle cooling fan, and the heated THC analysis recorder (diesel-cycle only). (The heat exchanger of the constant volume sampler, if used, petroleum-fueled diesel-cycle THC analyzer continuous sample line and filter, methanol-fueled vehicle THC, methanol and formaldehyde sample lines, if applicable, should be preheated to their respective operating temperatures before the test begins).

(6) Adjust the sample flow rates to the desired flow rate and set the gas flow measuring devices to zero.

(i) For gaseous bag samples (except THC samples), the minimum flow rate is 0.17 cfm (0.08 l/sec).

(ii) For THC samples, the minimum FID (or HFID in the case of diesel-cycle and methanol-fueled Otto-cycle vehicles) flow rate is 0.066 cfm (0.031 l/sec).

(iii) For methanol samples, the minimum flow rate is 0.14 cfm (0.067 l/sec).

(iv) For formaldehyde samples, the minimum flow rate is 0.036 cfm (0.017 l/s) with capsule collector and 0.14 cfm (0.067 l/s) with impinger.

Note: CFV sample flow rate is fixed by the venturi design.

(7) Attach the exhaust tube to the vehicle tailpipe(s).

(8) Carefully install a particulate sample filter into each of the filter holders. The filters must be handled only with forceps or tongs. Rough or abrasive filter handling will result in erroneous weight determination.

(9) Start the gas flow measuring device, position the sample selector valves to direct the sample flow into the "transient" exhaust sample bag, the "transient" methanol exhaust sample, the "transient" formaldehyde exhaust sample, the "transient" dilution air sample bag, the "transient" methanol dilution air sample and the "transient" formaldehyde dilution air sample (turn on the petroleum-fueled diesel-cycle

THC analyzer system integrator, mark the recorder chart, start particulate sample pump No. 1, and record both gas meter or flow measurement instrument readings, if applicable), turn the key on, and start cranking the engine.

(10) Fifteen seconds after the engine starts, place the transmission in gear.

(11) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.

(12) Operate the vehicle according to the Urban Dynamometer Driving Schedule (§ 86.115).

Note: During particulate testing, adjust the flow rate through the particulate sample probe to maintain a constant value within ± 5 percent of the set flow rate. Record the average temperature and pressure at the gas meter or flow instrument inlet. If the set flow rate cannot be maintained because of high particulate loading on the filter, the test shall be terminated. The test shall be rerun using a lower flow rate, or larger diameter filter, or both.

(13) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously switch the sample flows from the "transient" bags and samples to the "stabilized" bags and samples, switch off gas flow measuring device No. 1, switch off the No. 1 petroleum-fueled diesel hydrocarbon integrator and the No. 1 particulate sample pump, mark the petroleum-fueled diesel hydrocarbon recorder chart, and close valves isolating particulate filter No. 1, if applicable, start gas flow measuring device No. 2, and start the petroleum-fueled diesel hydrocarbon integrator No. 2 and the No. 2 particulate sample pump and open valves isolating particulate filter No. 2, if applicable. Before the acceleration which is scheduled to occur at 510 seconds, record the measured roll or shaft revolutions and reset the counter or switch to a second counter. As soon as possible transfer the "transient" exhaust and dilution air samples to the analytical system and process the samples according to § 86.140 obtaining a stabilized reading of the bag exhaust sample on all analyzers within 20 minutes of the end of the sample collection phase of the test. Obtain methanol and formaldehyde sample analyses, if applicable, within 24 hours of the end of the sample collection phase of the test.

(14) Turn the engine off 2 seconds after the end of the last deceleration (at 1,369 seconds).

(15) Five seconds after the engine stops running, simultaneously turn off gas flow measuring device No. 2 and, if applicable, turn off the hydrocarbon integrator No. 2, mark the hydrocarbon

recorder chart, turn off the No. 2 particulate sample pump and close the valves isolating particulate filter No. 2, and position the sample selector valves to the "standby" position (and open the valves isolating particulate filter No. 1, if applicable). Record the measured roll or shaft revolutions (both gas meter or flow measurement instrumentation readings), and re-set the counter. As soon as possible, transfer the "stabilized" exhaust and dilution air samples to the analytical system and process the samples according to § 86.140, obtaining a stabilized reading of the exhaust bag sample on all analyzers within 20 minutes of the end of the sample collection phase of the test. Obtain methanol and formaldehyde sample analyses, if applicable, within 24 hours of the end of the sample period. If applicable, carefully remove both pairs of particulate sample filters from their respective holders, place each in a separate petri dish, and cover.

(b)(16) through (b)(24) [Reserved]. For guidance see § 86.137-90.

35. A new § 86.140-94 is added to subpart B to read as follows:

§ 86.140-94 Exhaust sample analysis.

The following sequence shall be performed in conjunction with each series of measurements:

(a) For CO, CO₂, CH₄, NO_x, and for Otto-cycle and methanol-fueled diesel-cycle vehicle THC:

(1) Zero the analyzers and obtain a stable zero reading. Recheck after tests.

(2) Introduce span gases and set instrument gains. In order to avoid errors, span and calibrate at the same flow rates used to analyze the test sample. Span gases should have concentrations equal to 75 to 100 percent of full scale. If gain has shifted significantly on the analyzers, check the calibrations. Show actual concentrations on chart.

(3) Check zeroes; repeat the procedure in paragraphs (a) (1) and (2) of this section if required.

(4) Check flow rates and pressures.

(5) Measure THC, CO, CO₂, CH₄, and NO_x concentrations of samples.

(6) Check zero and span points. If difference is greater than 2 percent of full scale, repeat the procedure in paragraphs (a) (1) through (5) of this section.

(b) For petroleum-fueled diesel-cycle vehicle THC:

(1) Zero HFID analyzer and obtain a stable zero reading.

(2) Introduce span gas and set instrument gains. Span gas should have concentration equal to 75 to 100 percent of full scale.

(3) Check zero as in paragraph (b)(1) of this section.

(4) Introduction of zero and span gas into the analyzer can be accomplished by either of the following methods:

(i) Close heated valve in THC sample (see Figures B94-5 or B94-6) and allow gases to enter HFID. Extreme care should be taken not to introduce gases under high pressure.

(ii) Connect zero and span line directly to THC sample probe and introduce gases at a flow rate greater than 125 percent of the HFID flow rate with the CVS blower operating (see Figures B94-5 or B94-6). Excess flow must be allowed to exit probe inlet.

Note: In order to minimize errors, HFID flow rate and pressure during zero and span (and background bag reading) must be exactly the same as that used during testing.

(5) Continuously record (integrate electronically if desired) dilute THC emission levels during test. Background samples are collected in sample bags and analyzed as in paragraphs (b)(4) (i) or (ii) of this section.

(6) Check zero and span as in paragraphs (b) (1) through (4) of this section. If difference is greater than 2 percent of full scale, void test and check for THC "hangup" or electronic drift in analyzer.

(c) For CH₃OH (methanol-fueled vehicles):

(1) Introduce a reference sample of methanol (the concentration of methanol in deionized water is known and is CMR in the calculations) into the gas chromatograph and measure the area of the response peak. This reference sample peak area is AMR in the calculations.

(2) Introduce test samples into the gas chromatograph and measure the area of the response peak. This peak area is AMS in the calculations.

(d) For HCHO (methanol-fueled vehicles): (1) Introduce a reference sample of formaldehyde (the concentration of formaldehyde as a dinitrophenylhydrazine derivative in acetonitrile is known (CFR)) into the high pressure liquid chromatograph

(HPLC) and measure the area of the response peak. This reference sample peak area is AFR in the calculations.

(2) Introduce test samples into the high pressure liquid chromatograph and measure the area of the responses peak. This peak area is AFS in the calculations.

(e) For CH₄ analysis:

(1) In the event that the procedure results in negative NMHC_{wm} values (as may occur with high methane fractions), any negative NMHC_{wm} value whose absolute value is less than 10 percent of the NMHC standard shall be rounded to zero. Negative NMHC_{wm} values whose absolute value is more than 10 percent of the NMHC standard shall require sample remeasurement. If the 10 percent criterion cannot be met after remeasurement, the test will be void.

(2) Other sampling procedures may be used if shown to yield equivalent or superior results and if approved in advance by the Administrator.

36. A new § 86.144-94 is added to subpart B to read as follows:

§ 86.144-94 Calculations; exhaust emissions.

The final reported test results shall be computed by use of the following formula:

(a) For light-duty vehicles and light duty trucks:

$$Y_{wm} = 0.43 \left(\frac{Y_{ct} + Y_s}{D_{ct} + D_s} \right) + 0.57 \left(\frac{Y_{ht} + Y_s}{D_{ht} + D_s} \right)$$

Where:

(1) Y_{wm} = Weighted mass emissions of each pollutant, i.e., THC, CO, OMHCE, NMHC, OMNMHCE, NO_x, or CO₂, in grams per vehicle mile.

(2) Y_{ct} = Mass emissions as calculated from the "transient" phase of the cold start test, in grams per test phase.

(3) Y_{ht} = Mass emissions as calculated from the "transient" phase of the hot start test, in grams per test phase.

(4) Y_s = Mass emissions as calculated from the "stabilized" phase of the cold start test, in grams per test phase.

(5) D_{ct} = The measured driving distance from the "transient" phase of the cold start test, in miles.

(6) D_{ht} = The measured distance from the "transient" phase of the hot start test, in miles.

(7) D_s = The measured driving distance from the "stabilized" phase of the cold start test, in miles.

(b) The mass of each pollutant for each phase of both the cold start test and the hot start test is determined from the following:

(1) Total hydrocarbon mass:

$$HC_{mass} = V_{mix} \times \text{Density}_{HC} \times (HC_{conc}/1,000,000)$$

(2) Oxides of nitrogen mass:

$$NOx_{mass} = V_{mix} \times \text{Density}_{NOx} \times K_H \times (NOx_{conc}/1,000,000)$$

(3) Carbon monoxide mass:

$$CO_{mass} = V_{mix} \times \text{Density}_{CO} \times (CO_{conc}/1,000,000)$$

(4) Carbon dioxide mass:

$$CO_2_{mass} = V_{mix} \times \text{Density}_{CO_2} \times (CO_2_{conc}/100)$$

(5) Methanol mass:

$$CH_3OH_{mass} = V_{mix} \times \text{Density}_{CH_3OH} \times (CH_3OH_{conc}/1,000,000)$$

(6) Formaldehyde mass:

$$HCHO_{mass} = V_{mix} \times \text{Density}_{HCHO} \times (HCHO_{conc}/1,000,000)$$

(7) Organic material hydrocarbon equivalent mass:

$$OMHCE_{mass} = HC_{mass} + \frac{13.8756}{32.042}$$

$$(CH_3OH_{mass}) + \frac{13.8756}{32.042} (HCHO_{mass})$$

(8) Non-methane hydrocarbon mass:

$$NMHC_{mass} = V_{mix} \times \text{Density}_{NMHC} \times (NMHC_{conc}/1,000,000)$$

(9) Organic material non-methane hydrocarbon equivalent mass:

$$OMNMHCE_{mass} = NMHC_{mass} +$$

$$\frac{13.8756}{32.042} (CH_3OH_{mass}) + \frac{13.8756}{32.042} (HCHO_{mass})$$

(c) Meaning of symbols:

(1)(i) HC_{mass} = Total hydrocarbon emissions, in grams per test phase.

(ii) Density_{HC} = Density of total hydrocarbon is 16.33 g/ft³ (0.5768 kg/m³), assuming an average carbon to hydrogen ratio of 1:1.85, at 68 °F (20 °C) and 760 mm Hg (101.3 kPa) pressure.

(iii)(A) HC_{conc} = Total hydrocarbon concentration of the dilute exhaust sample corrected for background, in ppm carbon equivalent, i.e., equivalent propane $\times 3$.

$$(B) HC_{conc} = HC_e - HC_d(1 - (1/DF)).$$

Where:

(iv)(A) HC_e = Total hydrocarbon concentration of the dilute exhaust sample or, for diesel-cycle (or methanol-fueled vehicles, if selected), average hydrocarbon concentration of the dilute exhaust sample as calculated from the integrated THC traces, in ppm carbon equivalent.

$$(B) HC_e = FID HC_e - (r)C_{CH_3OH_e}$$

(v) $FID HC_e$ = Concentration of total hydrocarbon plus methanol in dilute exhaust as measured by the FID, ppm carbon equivalent.

(vi) r = FID response to methanol.

(vii) $C_{CH_3OH_e}$ = Concentration of methanol in dilute exhaust as determined from the dilute exhaust methanol sample in ppm carbon. For vehicles not fueled with methanol, $C_{CH_3OH_e}$ equals zero.

(viii)(A) HC_d = Total hydrocarbon concentration of the dilution air as measured, in ppm carbon equivalent.

$$(B) HC_d = FID HC_d - (r)C_{CH_3OH_d}$$

(ix) $FID HC_d$ = Concentration of total hydrocarbon plus methanol in dilution air as measured by the FID, ppm carbon equivalent.

(x) $C_{CH_3OH_d}$ = Concentration of methanol in dilution air as determined from dilution air methanol sample in ppm carbon. For vehicles not fueled with methanol, $C_{CH_3OH_d}$ equals zero.

(2)(i) NOx_{mass} = Oxides of nitrogen emissions, in grams per test phase.

(ii) Density_{NOx} = Density of oxides of nitrogen is 54.16 g/ft³ (1.913 kg/m³) assuming they are in the form of nitrogen dioxide, at 68 °F (20 °C) and 760 mm Hg (101.3 kPa) pressure.

(iii)(A) NOx_{conc} = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in ppm.

$$(B) NOx_{conc} = NOx_e - NOx_d(1 - (1/DF)).$$

Where:

(iv) NOx_e = Oxides of nitrogen concentration of the dilute exhaust sample as measured, in ppm.

(v) NOx_d = Oxides of nitrogen concentration of the dilution air as measured, in ppm.

(3)(i) CO_{mass} = Carbon monoxide emissions, in grams per test phase.

(ii) Density_{CO} = Density of carbon monoxide is 32.97 g/ft³ (1.164 kg/m³), at 68 °F (20 °C) and 760 mm Hg (101.3 kPa) pressure.

(iii)(A) CO_{conc} = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor, and CO_2 extraction, in ppm.

$$(B) CO_{conc} = CO_e - CO_d(1 - (1/DF)).$$

Where:

(iv)(A) CO_e = Carbon monoxide concentration of the dilute exhaust volume corrected for water vapor and carbon dioxide extraction, in ppm.

(B) $CO_e = (1 - 0.01925CO_2 - 0.000323R)CO_{em}$ for petroleum fuel with hydrogen to carbon ratio of 1.85:1.

(C) $CO_e = [1 - (0.01 + 0.005HCR)CO_2 - 0.000323R]CO_{em}$ for methanol fuel, where HCR is hydrogen-to-carbon ratio as measured for the fuel used.

(v) CO_{em} = Carbon monoxide concentration of the dilute exhaust sample as measured, in ppm.

(vi) CO_e = Carbon dioxide concentration of the dilute exhaust sample, in percent.

(vii) R = Relative humidity of the dilution air, in percent (see § 86.142(n)).

(viii)(A) CO_d = Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in ppm.

$$(B) CO_d = (1 - 0.000323R)CO_{dm}$$

Where:

(ix) CO_{dm} = Carbon monoxide concentration of the dilution air sample as measured, in ppm.

Note: If a CO instrument which meets the criteria specified in § 86.111 is used and the conditioning column has been deleted, CO_{em} must be substituted directly for CO_e and CO_{dm} must be substituted directly for CO_d .

(4)(i) CO_2_{mass} = Carbon dioxide emissions, in grams per test phase.

(ii) Density_{CO_2} = Density of carbon dioxide is 51.81 g/ft³ (1.830 kg/m³), at 68 °F (20 °C) and 760 mm Hg (101.3 kPa) pressure.

(iii)(A) CO_2_{conc} = Carbon dioxide concentration of the dilute exhaust sample corrected for background, in percent.

$$(B) CO_2_{conc} = CO_2_e - CO_2_d(1 - (1/DF)).$$

Where:

(iv) CO_2_d = Carbon dioxide concentration of the dilution air as measured, in percent.

(5)(i) CH_3OH_{mass} = Methanol emissions corrected for background, in grams per test phase.

(ii) Density_{CH_3OH} = Density of methanol is 37.71 g/ft³ (1.332 kg/m³), at 68 °F (20 °C) and 760 mmHg (101.3 kPa) pressure.

(iii)(A) CH_3OH_{conc} = Methanol concentration of the dilute exhaust corrected for background, ppm.

$$[B]CH_3OH_{conc} = C_{CH_3OH} - C_{CH_3OH}(1 - (1/DF))$$

Where:

(iv)(A) C_{CH_3OH} = Methanol concentration in the dilute exhaust, ppm.

(B) C_{CH_3OH} =

$$3.813 \times 10^{-3} \times C_{CH_3OH} \times T_{EM} [(A_5 \times AV_5) + (A_5 \times AV_5)]$$

$$(A_{CH_3OH} \times P_B \times V_{EM})$$

(v)(A) C_{CH_3OH} = Methanol concentration in the dilute exhaust, ppm.

(B) C_{CH_3OH} =

$$3.813 \times 10^{-3} \times C_{CH_3OH} \times T_{DM} [(A_5 \times AV_5) + (A_5 \times AV_5)]$$

$$(A_{CH_3OH} \times P_B \times V_{DM})$$

(vi) C_{CH_3OH} = Concentration of methanol in standard sample for calibration of GC, $\mu\text{g}/\text{ml}$.

(vii) A_{CH_3OH} = GC peak area of standard sample.

(viii) T_{EM} = Temperature of methanol sample withdrawn from dilute exhaust, °R.

(ix) T_{DM} = Temperature of methanol sample withdrawn from dilution air, °R.

(x) P_B = Barometric pressure during test, mm Hg.

(xi) V_{EM} = Volume of methanol sample withdrawn from dilute exhaust, ft^3 .

(xii) V_{DM} = Volume of methanol sample withdrawn from dilution air, ft^3 .

(xiii) A_5 = GC peak area of sample drawn from dilute exhaust.

(xiv) A_D = GC peak area of sample drawn from dilution air.

(xv) AV_5 = Volume of absorbing reagent (deionized water) in impinger through which methanol sample from dilute exhaust is drawn, ml.

(xvi) AV_D = Volume of absorbing reagent (deionized water) in impinger through which methanol sample from dilution air is drawn, ml.

(xvii) 1 = first impinger.

(xviii) 2 = second impinger.

(6)(i) $HCHO_{conc}$ = Formaldehyde emissions corrected for background, in grams per test phase.

(ii) Density $_{HCHO}$ = Density of formaldehyde is 35.36 g/ ft^3 (1.249 kg/ m^3), at 68 °F (20 °C) and 760 mmHg (101.3 kPa) pressure.

(iii)(A) $HCHO_{conc}$ = Formaldehyde concentration of the dilute exhaust corrected for background, in ppm.

$$[B]HCHO_{conc} = C_{HCHO} - C_{HCHO}(1 - (1/DF))$$

Where:

(iv)(A) C_{HCHO} = Formaldehyde concentration in dilute exhaust, in ppm.

(B) C_{HCHO} =

$$4.069 \times 10^{-3} \times C_{FDE} \times V_{AS} \times Q \times T_{EF}$$

$$V_{SE} \times P_B$$

(v)(A) C_{HCHO} = Formaldehyde concentration in dilution air in ppm.

(B) C_{HCHO} =

$$4.069 \times 10^{-3} \times C_{FDA} \times V_{AA} \times Q \times T_{DF}$$

$$V_{SA} \times P_B$$

(vi) C_{FDE} = Concentration of DNPH derivative of formaldehyde from dilute exhaust sample in sampling solution, $\mu\text{g}/\text{ml}$.

(vii) V_{AS} = Volume of sampling solution for dilute exhaust formaldehyde sample, ml.

(viii)(A) Q = Ratio of molecular weights of formaldehyde to its DNPH derivative.

(B) $Q = 0.1429$.

(ix) T_{EF} = Temperature of formaldehyde sample withdrawn from dilute exhaust, °R.

(x) V_{SA} = Volume of formaldehyde sample withdrawn from dilute exhaust, ft^3 .

(xi) P_B = Barometric pressure during test, mm Hg.

(xii) C_{FDA} = Concentration of DNPH derivative of formaldehyde from dilution air sample in sampling solution, $\mu\text{g}/\text{ml}$.

(xiii) V_{AA} = Volume of sampling solution for dilution air formaldehyde sample, ml.

(xiv) T_{DF} = Temperature of formaldehyde sample withdrawn from dilution air, °R.

(xv) V_{SA} = Volume of formaldehyde sample withdrawn from dilution air, ft^3 .

(7)(i) $DF = 13.4 / [CO_2 + (HC + CO) \cdot 10^{-4}]$ for petroleum-fueled vehicles.

(ii) $DF =$

$$100 \times \left(\frac{x}{x + y/2 + 3.76(x + y/4 - z/2)} \right)$$

$$CO_2 + (HC + CO + C_{CH_3OH}) \cdot 10^{-4}$$

for methanol-fueled vehicles where fuel composition is $C_xH_yO_z$ as measured for the fuel used.

(iii)(A) K_H = Humidity correction factor.

$$[B]K_H = 1/[1 - 0.0047(H - 75)]$$

$$[C] \text{ For SI units, } K_H = 1/[1 - 0.0329(H - 10.71)]$$

Where:

(iv)(A) H = Absolute humidity in grains (grams) of water per pound (kilogram) of dry air.

$$(B) H = [(43.478)R_a \times P_d] / [P_B - (P_d \times R_a / 100)]$$

$$[C] \text{ For SI units, } H = [(6.211)R_a \times P_d] / [P_B - (P_d \times R_a / 100)]$$

(v) R_a = Relative humidity of the ambient air, percent.

(vi) P_d = Saturated vapor pressure, mm Hg (kPa) at the ambient dry bulb temperature.

(vii) P_B = Barometric pressure, mm Hg (kPa).

(viii)(A) V_{mix} = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528 °R (293 °K) and 760 mm Hg (101.3 kPa)).

(B) For PDP-CVS, V_{mix} is:

$$V_{mix} = \frac{(V_o \times N \times (P_B - P_d) \times 528)}{760 \times T_p}$$

(C) For SI units,

$$V_{mix} = \frac{(V_o \times N \times (P_B - P_d) \times 293)}{101.3 \times T_p}$$

Where:

(ix) V_o = Volume of gas pumped by the positive displacement pump, in cubic feet (m^3) per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

(x) N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

(xi) P_B = Barometric pressure, mm Hg (kPa).

(xii) P_d = Pressure depression below atmospheric measured at the inlet to the positive displacement pump, in mm Hg (kPa) (during an idle mode).

(xiii) T_p = Average temperature of dilute exhaust entering positive displacement pump during test, °R (°K).

$$(8)(i) NMHC_{conc} = HC_{conc} - CH_{4conc}$$

(ii) Density $_{NMHC}$ = The density of non-methane hydrocarbon, is 18.33 g/ ft^3 (0.5768 kg/ m^3), assuming an average carbon to hydrogen ratio of 1:1.85 at 68 °F (20 °C) and 760 mm Hg (101.3 kPa) pressure.

(iii)(A) CH_{4conc} = Methane concentration of the dilute exhaust sample corrected for background, in ppm carbon equivalent.

(B) $CH_{4conc} = CH_{4e} - CH_{4d}(1 - 1/DF)$

Where:

(iv) CH_{4e} = Methane exhaust bag concentration in ppm carbon equivalent.

(v) CH_{4d} = Methane concentration of the dilution air in ppm carbon equivalent.

(d) For petroleum-fueled vehicles, example calculation of mass values of exhaust emissions using positive displacement pump:

(1) For the "transient" phase of the cold start test assume the following:

$V_o = 0.29344 \text{ ft}^3/\text{rev}$; $N = 10,485$; $R = 48.0 \text{ pct}$;

$R_s = 48.2 \text{ percent}$; $P_B = 762 \text{ mm Hg}$; $P_d = 22.225$

mm Hg ; $P_4 = 70 \text{ mm Hg}$; $T_p = 570^\circ \text{R}$;

$HC_e = 105.8 \text{ ppm}$, carbon equivalent;

$NO_{xe} = 11.2 \text{ ppm}$; $CO_{em} = 306.6 \text{ ppm}$;

$CO_{2e} = 1.43 \text{ percent}$; $CH_{4e} = 10.74 \text{ ppm}$;

$HC_d = 12.1 \text{ ppm}$; $NO_{xd} = 0.8 \text{ ppm}$; $CO_{dm} = 15.3$

ppm ; $CO_{2d} = 0.032 \text{ percent}$; $CH_{4d} = 2.20 \text{ ppm}$;

$D_{ct} = 3.598 \text{ miles}$.

Then:

(i) $V_{mix} = (0.29344)(10,485)(762 - 70)(528)/$

$(760)(570) = 2595.0 \text{ ft}^3 \text{ per test phase}$.

(ii)

$H = (43.478)(48.2)(22.225)$

$762 - (22.225)(48.2/100)$

$= 62 \text{ grains of water per pound of dry air}$.

(iii) $K_H = 1/[1 - 0.0047(62 - 75)] = 0.9424$.

(iv) $CO_e = [1 -$

$0.01925(1.43) - 0.000323(48)](306.6) = 293.4$

ppm .

(v) $CO_d = [1 - 0.000323(48)](15.3) = 15.1 \text{ ppm}$.

(vi) $DF = 13.4/[1.43 + 10^{-4}($

$105.8 + 293.4)] = 9.116$.

(vii) $HC_{conc} = 105.8 - 12.1(1 - 1/9.116) = 95.03$

ppm .

(viii) $HC_{mass} = (2595)(16.33)(95.03/$

$1,000,000) = 4.027 \text{ grams per test phase}$.

(ix) $NO_{xconc} = 11.2 - 0.8(1 - 1/9.116) = 10.49$

ppm .

(x) $NO_{xmass} = (2595)(54.16)(10.49/$

$1,000,000)(0.9424) = 1.389 \text{ grams per test phase}$.

(xi) $CO_{conc} = 293.4 - 15.1(1 - 1/9.116) = 280.0$

ppm .

(xii) $CO_{mass} = (2595)(32.97)(280/$

$1,000,000) = 23.96 \text{ grams per test phase}$.

(xiii) $CO_{2conc} = 1.43 - 0.032(1 - 1/$

$9.116) = 1.402 \text{ percent}$.

(xiv) $CO_{2mass} = (2595.0)(51.85)(1.402/$

$100) = 1886 \text{ grams per test phase}$.

(xv) $CH_{4conc} = 10.74 - 2.2(1 - 1/9.116) = 8.78$

ppm .

(xvi) $NMHC_{conc} = 95.03 - 8.78 = 86.25 \text{ ppm}$.

(xvii) $NMHC_{mass} = (2595)(16.33)(86.25)/$

$1,000,000 = 3.655 \text{ grams per test phase}$.

(2) For the stabilized portion of the cold start test assume that similar calculations resulted in the following:

(i) $HC_{mass} = 0.62 \text{ gram per test phase}$.

(ii) $NO_{xmass} = 1.27 \text{ grams per test phase}$.

(iii) $CO_{mass} = 5.98 \text{ grams per test phase}$.

(iv) $CO_{2mass} = 2346 \text{ grams per test phase}$.

(v) $D_{ct} = 3.902 \text{ miles}$.

(vi) $NMHC_{mass} = 0.50 \text{ gram per test phase}$.

(3) For the "transient" portion of the hot start test assume that similar calculations resulted in the following:

(i) $HC_{mass} = 0.51 \text{ gram per test phase}$.

(ii) $NO_{xmass} = 1.38 \text{ grams per test phase}$.

(iii) $CO_{mass} = 5.01 \text{ grams per test phase}$.

(iv) $CO_{2mass} = 1758 \text{ grams per test phase}$.

(v) $D_{ct} = 3.598 \text{ miles}$.

(vi) $NMHC_{mass} = 0.44 \text{ grams per test phase}$.

(4) Weighted mass emission results:

(i) $HC_{wm} = 0.43[(4.027 + 0.62)/$

$(3.598 + 3.902)] + 0.57[(0.51 + 0.62)/$

$(3.598 + 3.902)] = 0.352 \text{ gram per vehicle mile}$.

(ii) $NO_{xwm} = 0.43[(1.389 + 1.27)/$

$(3.598 + 3.902)] + 0.57[(1.38 + 1.27)/$

$(3.598 + 3.902)] = 0.354 \text{ gram per vehicle mile}$.

(iii) $CO_{wm} = 0.43[(23.96 + 5.98)/$

$(3.598 + 3.902)] + 0.57[(5.01 + 5.98)/$

$(3.598 + 3.902)] = 2.55 \text{ grams per vehicle mile}$.

(iv) $CO_{2wm} = 0.43[(1886 + 2346)/$

$(3.598 + 3.902)] + 0.57[(1758 + 2346)/$

$(3.598 + 3.902)] = 555 \text{ gram per vehicle mile}$.

(v) $NMHC_{wm} = 0.43[(3.655 + 0.50)/$

$(3.598 + 3.902)] + 0.57[(0.44 + 0.50)/$

$(3.598 + 3.902)] = 0.310 \text{ gram per vehicle mile}$.

(e) For methanol-fueled vehicles with

measured fuel composition of $CH_{3.14}O_{0.6}$,

example calculation of exhaust emissions

using positive displacement pump:

(1) For the "transient" phase of the cold

start test assume the following:

$V_o = 0.29344 \text{ ft}^3/\text{rev}$; $N = 10,485$; $R = 48.0 \text{ pct}$;

$R_s = 48.2 \text{ percent}$; $P_B = 762 \text{ mm Hg}$; $P_d = 22.225$

mm Hg ; $P_4 = 70 \text{ mm Hg}$; $T_p = 570^\circ \text{R}$; FID

$HC_e = 81.6 \text{ ppm}$, carbon equivalent; $r = 0.75$;

$C_{CH_3OH} = 71 \text{ } \mu\text{g/ml}$; $T_{EM} = 567^\circ \text{R}$;

$A_{CH_3OH} = 3660$; $V_{EM} = 1.18 \text{ ft}^3$; $A_5 = 4460$;

$AV_1 = 25.2 \text{ ml}$; $A_2 = 360$; $AV_2 = 24.9 \text{ ml}$;

$T_{DM} = 532^\circ \text{R}$; $V_{DM} = 1.17 \text{ ft}^3$; $A_D = 110$;

$AV_{D1} = 25.0 \text{ ml}$; $A_{D2} = 10$; $AV_{D2} = 25.1 \text{ ml}$;

$C_{FDE} = 20 \text{ } \mu\text{g/ml}$; $V_{AE} = 5.0 \text{ ml}$; $Q = 0.1429$;

$T_{EF} = 569^\circ \text{R}$; $V_{SE} = 0.30 \text{ ft}^3$; $C_{FDA} = 1 \text{ } \mu\text{g/ml}$;

$V_{AA} = 5.0 \text{ ml}$; $T_{DV} = 532^\circ \text{R}$; $V_{SA} = 0.31 \text{ ft}^3$;

$NO_{xe} = 11.2 \text{ ppm}$; $CO_{em} = 306.6 \text{ ppm}$;

$CO_{2e} = 1.43 \text{ pct}$; $CH_{4e} = 10.74 \text{ ppm}$; FID

$HC_d = 12.1 \text{ ppm}$; $NO_{xd} = 0.8 \text{ ppm}$; $CO_{dm} = 15.3$

ppm ; $CO_{2d} = 0.032 \text{ percent}$; $CH_{4d} = 2.20 \text{ ppm}$;

$D_{ct} = 3.598 \text{ miles}$.

Then:

(i) $V_{mix} = (0.29344)(10,485)(762 - 70)(528)/$

$(760)(570) = 2595.0 \text{ ft}^3 \text{ per test phase}$.

(ii) $H = (43.478)(48.2)(22.225)/$

$[762 - (22.225 \times 48.2/100)] = 62 \text{ grains of water}$

$\text{per pound of dry air}$.

(iii) $K_H = 1/[1 - 0.0047(62 - 75)] = 0.9424$.

(iv) $CO_e = [1 - (0.01 + 0.005 \times 3.14 \times 1.43) - 0$

$.000323(48)] \times 306.6 = 291.9 \text{ ppm}$.

(v) $CO_d = (1 - 0.000323(48)) \times 15.3 = 15.1 \text{ ppm}$

(vi) $C_{CH_3OH} =$

$(3.813 \times 10^{-2})(71)(567)/[(4460)(25.2) +$

$(360)(24.9)]$

$(3660)(762)(1.18)$

$= 56.60 \text{ ppm}$.

(vii) $DF =$

$100[1/[1 + (3.14/2) + 3.76(1 + (3.14/4) - (0.6/2))]]$

$1.43 + 10^{-4}[81.6 + 291.9 +$

$(1 - 0.75)(56.60)]$

$= 8.350$

(viii) $C_{CH_3OH} =$

$(3.813 \times 10^{-2})(71)(532)/[(110)(25.0) +$

$(10)(25.1)]$

$(3660)(762)(1.17)$

$= 1.32 \text{ ppm}$

(ix) $CH_3OH_{conc} = 56.60 - 1.32(1 - 1/$

$8.350) = 55.44 \text{ ppm}$.

(x) $CH_3OH_{mass} = 2595.0 \times 37.71 \times (55.44/$

$1,000,000) = 5.43 \text{ grams per test phase}$.

(xi) $HC_{conc} = [81.6 - (0.75)($

$56.60)] - [12.1 - (0.75)(1.32)](1 - 1/8.350) = 29.34$

ppm .

(xii) $HC_{mass} = (2595)(16.33)(29.34/$

$1,000,000) = 1.24 \text{ grams per test phase}$.

(xiii) $C_{CH_3OH} =$

$$\frac{4.069 \times 10^{-2} (20)(5)(0.1429)(569)}{(0.30)(762)} = 1.4473 \text{ ppm.}$$

(xiv) $C_{\text{HCHO}} =$

$$\frac{4.069 \times 10^{-2} (1)(5)(0.1429)(532)}{(0.31)(762)} = 0.0655 \text{ ppm.}$$

(xv) $\text{HCHO}_{\text{conc}} = 1.4473 - 0.0655(1 - 1/8.350) = 1.3896 \text{ ppm.}$

(xvi) $\text{HCHO}_{\text{mass}} = (2595)(35.36)(1.3896/1,000,000) = 0.1275 \text{ grams per test phase.}$

(xvii) $\text{OMHCE} = 1.24 + (13.8756/32.042)(5.43) + (13.8756/30.0262)(0.1275) = 3.65 \text{ grams per test phase.}$

(xviii) $\text{NOx}_{\text{conc}} = 11.2 - (0.8)(1 - 1/8.350) = 10.50 \text{ ppm.}$

(xix) $\text{NOx}_{\text{mass}} = (2595)(54.16)(10.50/1,000,000)(0.9424) = 1.390 \text{ grams per test phase.}$

(xx) $\text{CO}_{\text{conc}} = 291.9 - 15.1(1 - 1/8.350) = 278.61 \text{ ppm.}$

(xxi) $\text{CO}_{\text{mass}} = (2595.0)(32.97)(278.61/1,000,000) = 23.84 \text{ grams per test phase.}$

(xxii) $\text{CO}_{2\text{conc}} = 1.43 - 0.032(1 - 1/8.350) = 1.402 \text{ percent.}$

(xxiii) $\text{CO}_{2\text{mass}} = (2595.0)(51.85)(1.402/100) = 1888 \text{ grams}$

(xxiv) $\text{CH}_4_{\text{conc}} = 10.74 - 2.20(1 - 1/8.350) = 8.80 \text{ ppm.}$

(xxv) $\text{NMHC}_{\text{conc}} = 29.34 \text{ ppm} - 8.80 \text{ ppm} = 20.54 \text{ ppm.}$

(xxvi) $\text{NMHC}_{\text{mass}} = (2595.0)(16.33)(20.54/1,000,000) = 0.870 \text{ grams per test phase.}$

(xxvii) $\text{OMNMHCE}_{\text{mass}} = 0.870 + (13.8756/32.042)(5.43) + (13.8756/30.0262)(0.1275) = 3.28 \text{ grams per test phase.}$

(2) For the stabilized portion of the cold start test assume that similar calculations resulted in the following:

(i) $\text{OMHCE} = 0.55 \text{ grams per test phase.}$

(ii) $\text{NOx}_{\text{mass}} = 1.27 \text{ grams per test phase.}$

(iii) $\text{CO}_{\text{mass}} = 5.98 \text{ grams per test phase.}$

(iv) $\text{CO}_{2\text{mass}} = 2346 \text{ grams per test phase.}$

(v) $D_s = 3.902 \text{ miles.}$

(vi) $\text{OMNMHCE} = 0.50 \text{ grams per test phase.}$

(3) For the "transient" portion of the hot start test assume that similar calculations resulted in the following:

(i) $\text{OMHCE} = 0.67 \text{ grams as carbon equivalent per test phase.}$

(ii) $\text{NOx}_{\text{mass}} = 1.38 \text{ grams per test phase.}$

(iii) $\text{CO}_{\text{mass}} = 5.01 \text{ grams per test phase.}$

(iv) $\text{CO}_{2\text{mass}} = 1758 \text{ grams per test phase.}$

(v) $D_{\text{ht}} = 3.598 \text{ miles.}$

(vi) $\text{OMNMHCE} = 0.44 \text{ grams per test phase.}$

(4) Weighted emission results:

(i) $\text{OMHCE}_{\text{wm}} = 0.43[(3.65 + 0.55)/(3.598 + 3.902)] + 0.57[(0.67 + 0.55)/(3.598 + 3.902)] = 0.334 \text{ grams as carbon equivalent per mile.}$

(ii) $\text{NOx}_{\text{wm}} = 0.43[(1.390 + 1.27)/(3.598 + 3.902)] + 0.57[(1.38 + 1.27)/(3.598 + 3.902)] = 0.354 \text{ grams per vehicle mile.}$

(iii) $\text{CO}_{\text{wm}} = 0.43[(23.84 + 5.98)/(3.598 + 3.902)] + 0.57[(5.01 + 5.98)/(3.598 + 3.902)] = 2.54 \text{ grams per vehicle mile.}$

(iv) $\text{CO}_{2\text{wm}} = 0.43[(1886 + 2346)/(3.598 + 3.902)] + 0.57[(1758 + 2346)/(3.598 + 3.902)] = 555 \text{ grams per vehicle mile.}$

(v) $\text{OMNMHCE} = 0.43[(3.28 + 0.50)/(3.598 + 3.902)] + 0.57[(0.44 + 0.55)/(3.598 + 3.902)] = 0.292 \text{ grams as carbon equivalent per mile.}$

(Approved by the Office of Management and Budget under control number 2060-0104)

37. A new subpart H is added to part 86 to read as follows:

Subpart H—General Provisions for In-use Emission Regulations for 1994 and Later Model Year Light-Duty Vehicles and Light-Duty Trucks

Sec.

86.701-84 General Applicability.

86.702-84 Definitions.

86.703-84 Abbreviations.

86.704-84 Section numbering; construction.

86.705-84 through 86.707-84 [Reserved]

86.708-84 In-use emission standards for 1994 and later model year light duty vehicles.

86.708-88 In-use emission standards for 1998 and later model year light duty vehicles.

86.709-84 In-use emission standards for 1994 and later model year light-duty trucks.

86.709-99 In-use emission standards for 1999 and later model year light-duty trucks.

Subpart H—General Provisions for In-use Emission Regulations for 1994 and Later Model Year Light-Duty Vehicles and Light-Duty Trucks

§ 86.701-84 General applicability.

The provisions of this subpart apply to: 1994 and later model year Otto-cycle and diesel light-duty vehicles; 1994 and later model year Otto-cycle and diesel light-duty trucks; and 1994 and later model year Otto-cycle and diesel heavy-duty engines. The provisions of subpart B of this part apply to this subpart.

§ 86.702-84 Definitions.

The definitions in subparts A and B of this part apply to this subpart.

§ 86.703-84 Abbreviations.

The abbreviations in subparts A and B of this part apply to this subpart.

§ 86.704-84 Section numbering; construction.

Section 86.104 of subpart B applies to this subpart.

§ 86.705-84—§ 86.707-84 [Reserved]

§ 86.708-84 In-use emission standards for 1994 and later model year light duty vehicles.

Section 86.708-84 includes text that specifies requirements that differ from § 86.090-8 of subpart A of this part. Where a paragraph in § 86.090-8 is identical and applicable to § 86.708-84, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.090-8." Where a corresponding paragraph of § 86.090-8 is not applicable, this is indicated by the statement "[Reserved]."

(a)(1) *Standards.* (i) In-use exhaust emissions from 1994 and later model year light-duty vehicles shall meet all standards in Tables H94-3 and H94-4 in the rows designated with the applicable fuel type, according to the implementation schedules in Tables H94-1 and H94-2, and shall meet all standards in Tables H94-6 and H94-7 in the rows designated with the applicable fuel type, according to the implementation schedules in Table H94-5, as follows:

(A)(1)(i) For model years 1994 and 1995, a minimum of the percentage shown in Table H94-1 of a manufacturer's sales of the applicable model year's light-duty vehicles shall not exceed the applicable Tier 1¹ standards in Table H94-3. The remaining vehicles, if any, shall not exceed the applicable Tier 0 standards in Table H94-3.

(ii) For model years 1996 and beyond, a minimum of the percentages shown in Table H94-2 of a manufacturer's sales of the applicable model year's light-duty vehicles shall not exceed the applicable Tier 1¹ standards in Table H94-3 and

H94-4. The remaining vehicles, if any, shall not exceed the applicable Tier 1, standards in Tables H94-3.

(2) *Particulates*. For in-use exhaust emissions for 1994 and later, a minimum of the percentage shown in Table H94-5 of a manufacturer's sales of the applicable model year's light-duty vehicles shall not exceed the applicable Tier 1¹ standards in Tables H94-6 and H94-7. The remaining vehicles, if any, shall not exceed the applicable Tier 0 standards in Table H94-6.

(3) Optionally, compliance with the Tier 1¹ and Tier 1 implementation schedules of this section may be based on the combined sales of light-duty vehicles and light light-duty trucks, if such option was taken for certification as allowed in § 86.094-8 and § 86.094-9

of subpart A of this part. Vehicles meeting Tier 1, in-use standards shall only be combined for this purpose with other vehicles meeting Tier 1, standards, and those meeting Tier 1 standards shall only be combined with those meeting the Tier 1 standards.

TABLE H94-1.—IMPLEMENTATION SCHEDULE FOR LIGHT-DUTY VEHICLES FOR HCs, CO AND NOx

Model year	Tier 1 percentage
1994.....	40
1995.....	80
1996.....	60
1997.....	20
After 1997.....	0

TABLE H94-2.—IMPLEMENTATION SCHEDULE FOR LIGHT-DUTY VEHICLES FOR HCs, CO AND NOx

Model year	Tier 1 percentage
1994.....	0
1995.....	0
1996.....	40
1997.....	80
After 1997.....	100

TABLE H94-3.—INTERMEDIATE USEFUL LIFE ¹ STANDARDS (g/mi) FOR LIGHT-DUTY VEHICLES FOR HCs, CO AND NOx

Fuel	Standards	THC	NMHC	OMHCE	OMNMHCE	CO	NOx
Gasoline.....	Tier 0.....	0.41				3.4	1.0
Gasoline.....	Tier 1.....	0.41	0.32			3.4	0.4
Gasoline.....	Tier 1.....	0.41	0.25			3.4	0.4
Diesel.....	Tier 0.....	0.41				3.4	1.0
Diesel.....	Tier 1.....	0.41	0.32			3.4	1.0
Diesel.....	Tier 1.....	0.41	0.25			3.4	1.0
Methanol.....	Tier 0.....			0.41		3.4	1.0
Methanol.....	Tier 1.....			0.41	0.32	3.4	0.4
Methanol.....	Tier 1.....			0.41	0.25	3.4	0.4

¹ The applicable useful life is 5 years or 50,000 miles, whichever first occurs.

TABLE H94-4.—FULL USEFUL LIFE ¹ STANDARDS (g/mi) FOR LIGHT-DUTY VEHICLES FOR HCs, CO AND NOx

Fuel	Standards	THC	NMHC	OMHCE	ONMHCE	CO	NOx
Gasoline.....	Tier 0.....						
Gasoline.....	Tier 1.....		0.31			4.2	0.6
Diesel.....	Tier 0.....						
Diesel.....	Tier 1.....		0.31			4.2	1.25
Methanol.....	Tier 0.....						
Methanol.....	Tier 1.....				0.31	4.2	0.6

¹ The applicable useful life is 10 years or 100,000 miles, whichever first occurs, except that no enforcement testing will be done beyond 7 years or 75,000 miles, whichever first occurs.

TABLE H94-5.—IMPLEMENTATION SCHEDULE FOR LIGHT-DUTY VEHICLES FOR PM

Model year	Tier 1 percentage
1994.....	40
1995.....	80
After 1995.....	100

TABLE H94-6.—INTERMEDIATE USEFUL LIFE ¹ STANDARDS (G/ML) FOR LIGHT-DUTY VEHICLES FOR PM

Fuel	Standards	PM
Gasoline.....	Tier 0.....	
Gasoline.....	Tier 1.....	0.08
Diesel.....	Tier 0.....	0.20
Diesel.....	Tier 1.....	0.08
Methanol.....	Tier 0.....	² 0.20

TABLE H94-6.—INTERMEDIATE USEFUL LIFE ¹ STANDARDS (G/ML) FOR LIGHT-DUTY VEHICLES FOR PM—Continued

Fuel	Standards	PM
Methanol.....	Tier 1.....	0.08

¹ The applicable useful life is 5 years or 50,000 miles, whichever first occurs.

² Applicable only to diesel-cycle vehicles.

TABLE H94-7.—FULL USEFUL LIFE ¹ STANDARDS (G/MI) FOR LIGHT-DUTY VEHICLES FOR PM

Fuel	Standards	PM
Gasoline.....	Tier 0.....	
Gasoline.....	Tier 1.....	0.10
Diesel.....	Tier 0.....	
Diesel.....	Tier 1.....	0.10

TABLE H94-7.—FULL USEFUL LIFE ¹ STANDARDS (G/MI) FOR LIGHT-DUTY VEHICLES FOR PM—Continued

Fuel	Standards	PM
Methanol.....	Tier 0.....	
Methanol.....	Tier 1.....	0.10

¹ The applicable useful life is 10 years or 100,000 miles, whichever first occurs, except that no enforcement testing will be done beyond 7 years or 75,000 miles, whichever first occurs.

(B)(1)(i) Sales percentages for the purposes of determining compliance with paragraph (a)(1)(i) of this section shall be based on total actual U.S. sales of light-duty vehicles of the applicable model year by a manufacturer to a dealer, distributor, fleet operator, broker, or any other entity which

comprises the point of first sale. If the option of paragraph (a)(1)(i)(A)(3) is taken, such sales percentages shall be based on the total actual combined U.S. sales of light-duty vehicles and light light-duty trucks of the applicable model year by a manufacturer to a dealer, distributor, fleet operator, broker, or any other entity which comprises the point of first sale.

(ii) The manufacturer may petition the Administrator to allow actual volume produced for U.S. sales to be used in lieu of actual U.S. sales for purposes of determining compliance with the implementation schedule sales percentages of Tables H94-1, H94-2 and H94-5 of this section. Such petition shall be submitted within 30 days of the end of the model year to the Manufacturers Operations Division. For the petition to be granted, the manufacturer must establish to the satisfaction of the Administrator that actual production volume is functionally equivalent to actual sales volume.

(iii) The vehicles that are counted toward the implementation schedule sales percentage, or toward the total on which such percentage is based, for certification purposes as prescribed by § 86.094-8 (a)(1)(i)(B)(1)(iii) of subpart A of this part, shall be the same vehicles that are counted toward the implementation schedule sales percentage, or the total on which it is based, for in-use purposes.

(iv) Small volume manufacturers, as defined in § 86.092-14 (b) (1) and (2), are exempt from the implementation schedules of Tables H94-1 and H94-2 of this section for model years 1994 through 1997, and from the implementation schedule of Table H94-5 of this section for model years 1994 and 1995. For small volume manufacturers, Tier 0 standards of Table H94-6 continue to apply until model year 1996 and Tier 0 standards of Table H94-3 continue to apply until model year 1998, when one hundred percent compliance with the Tier 1 standards of Tables H94-

3, H94-4, H94-6, and H94-7 is required. This exemption does not apply to small volume engine families as defined in § 86.092-14 (b)(5).

(2)(i) For 1994 and 1995 model year light-duty vehicles, the engine families which comprise the required implementation schedule percentage of sales meeting Tier 1 standards for HCs, CO, and NOx, for purposes of certification, shall be the same engine families which comprise the required implementation schedule percentage of sales meeting the interim in-use standards (labeled "Tier 1" in the tables of in-use standards) for in-use purposes.

(ii) For 1996 and 1997 model year light-duty vehicles the engine families which comprise the required implementation schedule percentage of sales meeting interim in-use standards (labeled "Tier 1" in the tables of in-use standards) and final in-use standards (labeled "Tier 1" in the tables of in-use standards) respectively, for HCs, CO, and NOx, for in-use purposes, shall be designated by the manufacturer at the time of Application for Certification.

(iii) For 1994 and 1995 model year light-duty vehicles, the engine families which comprise the required implementation schedule percentage of sales meeting Tier 1 standards, for PM, for purposes of certification, shall be the same engine families which comprise the required implementation schedule percentage of sales meeting the final in-use standards (labeled "Tier 1" in the tables of in-use standards) for PM for in-use purposes.

(3) The manufacturer must state at the time of Application for Certification, based on projected U.S. sales or projected production for U.S. sale, which families will be used to attain the required implementation schedule sales percentages for in-use purposes.

(4) A manufacturer cannot use one set of engine families to meet its in-use intermediate useful life standards and another to meet its in-use full useful life standards. The same families which are

used to meet the intermediate useful life standards will be required without deviation to meet the corresponding full useful life standards.

(ii) Engine families participating in the particulate averaging program as specified in § 86.094-8 (a)(1)(ii) shall be subject, for purposes of in-use compliance, to the particulate family emission limit determined for that engine family for certification purposes, in lieu of the appropriate particulate standard shown in the tables of in-use standards in this section.

(2) The standards set forth in paragraph (a)(1)(i) of this section refer to the exhaust emitted over a driving schedule as set forth in subpart B of this part and measured and calculated in accordance with those procedures. The test weight basis for light-duty vehicles, for the purposes of determining equivalent test weight as prescribed in § 86.129-94, shall be loaded vehicle weight.

(b) The provisions of § 86.090-8 (b) through (h) of subpart A of this part apply to this section. The provisions of § 86.094-8 (i) through (j) of subpart A of this part apply to this section.

§ 86.708-98 In-use emission standards for 1998 and later model year light duty vehicles.

Section 86.708-98 includes text that specifies requirements that differ from § 86.090-8 of subpart A of this part. Where a paragraph in § 86.090-8 is identical and applicable to § 86.708-98, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.090-8." Where a corresponding paragraph of § 86.090-8 is not applicable, this is indicated by the statement "[Reserved]."

(a)(1)(i) In-use exhaust emissions from 1998 and later model year light-duty vehicles shall meet all standards in Tables H98-1 and H98-2 in the rows designated with the applicable fuel type.

TABLE H98-1.—INTERMEDIATE USEFUL LIFE ¹ STANDARDS (G/M) FOR LIGHT-DUTY VEHICLES

Fuel	THC	NMHC	OMHCE	OMNMHCE	CO	NOx	PM
Gasoline	0.41	0.25			3.4	0.4	0.08
Diesel	0.41	0.25			3.4	1.0	0.08
Methanol			0.41	0.25	3.4	0.4	0.08

¹ The applicable useful life is 5 years or 50,000 miles, whichever first occurs.

Table H98-2.—FULL USEFUL LIFE ¹ STANDARDS (G/M) FOR LIGHT-DUTY VEHICLES

Fuel	THC	NMHC	OMHCE	OMNMHCE	CO	NOx	PM
Gasoline		0.31			4.2	0.6	0.10
Diesel		0.31			4.2	1.25	0.10

Table H98-2.—FULL USEFUL LIFE ¹ STANDARDS (G/Mi) FOR LIGHT-DUTY VEHICLES—Continued

Fuel	THC	NMHC	OMHCE	OMNMHCE	CO	NOx	PM
Methanol				0.31	4.2	0.6	0.10

¹ The applicable useful life is 10 years or 100,000 miles, whichever first occurs, except that no enforcement testing will be done beyond 7 years or 75,000 miles, whichever first occurs.

(ii)(A) Vehicles subject to the standards of paragraph (a)(1)(i) of this section shall be all actual U.S. sales of light-duty vehicles of the applicable model year by a manufacturer.

(B) A manufacturer cannot use one set of engine families to meet its in-use intermediate useful life standards and another to meet its in-use full useful life standards. The same families which are used to meet the intermediate useful life standards will be required without deviation to meet the corresponding full useful life standards.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in subpart B of this part and measured and calculated in accordance with those procedures. The test weight basis for light-duty vehicles, for the purposes of determining equivalent test weight as prescribed in § 86.129-94, shall be loaded vehicle weight.

(b) The provisions of § 86.090-8 (b) through (h) of subpart A of this part apply to this section. The provisions of § 86.096-8 (i) through (j) of subpart A of this part apply to this section.

§ 86.709-94 In-use emission standards for 1994 and later model year light-duty trucks.

Section 86.709-94 includes text that specifies requirements that differ from § 86.091-9 of subpart A of this part. Where a paragraph in § 86.091-9 is identical and applicable to § 86.709-94, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.091-9." Where a corresponding

paragraph of § 86.091-9 is not applicable, this is indicated by the statement "[Reserved]."

(a)(1) *Standards*—(i) *Light light-duty trucks.* In-use exhaust emissions from 1994 and later model year light light-duty trucks shall meet all standards in Tables H94-9 and H94-10 in the rows designated with the applicable fuel type and loaded vehicle weight, according to the implementation schedule in Table H94-8, and shall meet all standards in Tables H94-12 and H94-13 in the rows designated with the applicable fuel type and loaded vehicle weight, according to the implementation schedules in Table H94-11, as follows:

(A)(i)(f) For model year 1994 and 1995, a minimum of the respective percentages shown in the Tier 1, column of Table H94-8 of a manufacturer's sales of the applicable model year's light light-duty trucks shall not exceed the applicable Tier 1 standards in Tables H94-9 and H94-10. The remaining vehicles, if any, shall not exceed the applicable Tier 0 standards in Tables H94-9 and H94-10.

(ii) For model years 1996 and 1997, a minimum of the percentages shown in the Tier 1 percentage column of Table H94-8 of a manufacturer's sales of the applicable model year's light light-duty trucks shall not exceed the applicable Tier 1 standards in Table H94-9 and H94-10, and the remaining vehicles, if any, shall not exceed the applicable Tier 1 standards in Tables H94-9 and H94-10.

(iii) For model year 1998 and beyond, a minimum of the percentage shown in the Tier 1 percentage column of Table

H94-8 of a manufacturer's sales of the applicable model year's light light-duty trucks shall not exceed the applicable Tier 1 standards in Tables H94-9 and H94-10.

(2) *Particulates.* For in-use exhaust emissions for 1994 and later, a minimum of the percentage shown in Table H94-11 of a manufacturer's sales of the applicable model year's light light-duty trucks shall not exceed the applicable Tier 1 standards in Tables H94-12 and H94-13. The remaining light light-duty trucks, if any, shall not exceed the applicable Tier 0 standards in Tables H94-12 and H94-13.

(3) Optionally, compliance with the Tier 1, and Tier 1 implementation schedules of this section may be based on the combined sales of light-duty vehicles and light light-duty trucks, if such option was taken for certification as allowed in § 86.094-8 and § 86.094-9 of subpart A of this part. Vehicles meeting Tier 1, in-use standards shall only be combined for this purpose with other vehicles meeting Tier 1 standards, and those meeting Tier 1 standards shall only be combined with those meeting the Tier 1 standards.

TABLE H94-8.—IMPLEMENTATION SCHEDULE FOR LIGHT LIGHT-DUTY TRUCKS FOR HCS, CO AND NOX

Model year	Tier 1, percentage	Tier 1 percentage
1994	40	0
1995	80	0
1996	60	40
1997	20	80
1998	0	100

TABLE H94-9.—INTERMEDIATE USEFUL LIFE ¹ STANDARDS (G/Mi) FOR LIGHT LIGHT-DUTY TRUCKS FOR HCS, CO AND NOX

Fuel	LVW (lbs)	Standards	THC	NMHC	OMHCE	OMNMHCE	CO	NOx
Gasoline	0-3750	Tier 0	0.80				10	1.2
Gasoline	0-3750	Tier 1	0.80	0.32			5.2	0.4
Gasoline	0-3750	Tier 1	0.80	0.25			3.4	0.4
Gasoline	3751-5750	Tier 0	0.80				10	1.7
Gasoline	3751-5750	Tier 1	0.80	0.41			6.7	0.7
Gasoline	3751-5750	Tier 1	0.80	0.32			4.4	0.7
Diesel	0-3750	Tier 0	0.80				10	1.2
Diesel	0-3750	Tier 1	0.80	0.32			5.2	1.2
Diesel	0-3750	Tier 1	0.80	0.25			3.4	1.0
Diesel	3751-5750	Tier 0	0.80				10	1.7
Diesel	3751-5750	Tier 1	0.80	0.41			6.7	1.7
Diesel	3751-5750	Tier 1	0.80	0.32			4.4	0.97
Methanol	0-3750	Tier 0			0.80		10	1.2
Methanol	0-3750	Tier 1			0.80	0.32	5.2	0.4

TABLE H94-9.—INTERMEDIATE USEFUL LIFE ¹ STANDARDS (G/MI) FOR LIGHT LIGHT-DUTY TRUCKS FOR HCs, CO AND NOx—Continued

Fuel	LVW (lbs)	Standards	THC	NMHC	OMHCE	ONMHCE	CO	NOx
Methanol	0-3750	Tier 1			0.80	0.25	3.4	0.4
Methanol	3751-5750	Tier 0			0.80		10	1.7
Methanol	3751-5750	Tier 1			0.80	0.41	6.7	0.7
Methanol	3751-5750	Tier 1			0.80	0.32	4.4	0.7

¹ The applicable useful life is 5 years or 50,000 miles, whichever first occurs.

TABLE H94-10.—FULL USEFUL LIFE STANDARDS (G/MI) FOR LIGHT LIGHT-DUTY TRUCKS FOR HCs, CO AND NOx

Fuel	LVW (lbs)	Standards	THC ²	NMHC ¹	OMHCE ²	ONMHCE ¹	CO ¹	NOx ¹
Gasoline	0-3750	Tier 0	0.80				10	1.2
Gasoline	0-3750	Tier 1	0.80					
Gasoline	0-3750	Tier 1	0.80	0.31			4.2	0.60
Gasoline	3751-5750	Tier 0	0.80				10	1.7
Gasoline	3751-5750	Tier 1	0.80					
Gasoline	3751-5750	Tier 1	0.80	0.40			5.5	0.97
Diesel	0-3750	Tier 0	0.80				10	1.2
Diesel	0-3750	Tier 1	0.80					
Diesel	0-3750	Tier 1	0.80	0.31			4.2	1.25
Diesel	3751-5750	Tier 0	0.80				10	1.7
Diesel	3751-5750	Tier 1	0.80					
Diesel	3751-5750	Tier 1	0.80	0.40			5.5	0.97
Methanol	0-3750	Tier 0			0.80		10	1.2
Methanol	0-3750	Tier 1			0.80			
Methanol	0-3750	Tier 1			0.80	0.31	4.2	0.60
Methanol	3751-5750	Tier 0			0.80		10	1.7
Methanol	3751-5750	Tier 1			0.80			
Methanol	3751-5750	Tier 1			0.80	0.40	5.5	0.97

¹ The applicable useful life is 10 years or 100,000 miles, whichever first occurs, except that no enforcement testing will be done beyond 7 years or 75,000 miles, whichever first occurs.² The applicable useful life is 11 years or 120,000 miles, whichever first occurs.

TABLE H94-11.—IMPLEMENTATION SCHEDULE FOR LIGHT LIGHT-DUTY TRUCKS FOR PM

Model year	Tier 1 percentage
1994	0%
1995	40%
1996	80%
after 1996	100%

TABLE H94-12.—INTERMEDIATE USEFUL LIFE ¹ STANDARDS (G/ML) FOR LIGHT LIGHT-DUTY TRUCKS FOR PM

Fuel	LVW (lbs)	Standards	PM
Gasoline	0-3750	Tier 0	
Gasoline	0-3750	Tier 1	0.08
Gasoline	3751-5750	Tier 0	
Gasoline	3751-5750	Tier 1	0.08
Diesel	0-3750	Tier 0	0.26
Diesel	0-3750	Tier 1	0.08
Diesel	3751-5750	Tier 0	0.13
Diesel	3751-5750	Tier 1	0.08
Methanol	0-3750	Tier 0	
Methanol	0-3750	Tier 1	0.08
Methanol	3751-5750	Tier 0	
Methanol	3751-5750	Tier 1	0.08

¹ The applicable useful life is 5 years or 50,000 miles, whichever first occurs.TABLE H94-13.—FULL USEFUL LIFE ¹ STANDARDS (G/ML) FOR LIGHT LIGHT-DUTY TRUCKS FOR PM

Fuel	LVW (lbs)	Standards	PM
Gasoline	0-3750	Tier 0	
Gasoline	0-3750	Tier 1	0.10
Gasoline	3751-5750	Tier 0	

TABLE H94-13.—FULL USEFUL LIFE¹ STANDARDS (G/ML) FOR LIGHT LIGHT-DUTY TRUCKS FOR PM—Continued

Fuel	LVW (lbs)	Standards	PM
Gasoline.....	3751-5750	Tier 1.....	0.10
Diesel.....	0-3750	Tier 0.....	0.26
Diesel.....	0-3750	Tier 1.....	0.10
Diesel.....	3751-5750	Tier 0.....	0.13
Diesel.....	3751-5750	Tier 1.....	0.10
Methanol.....	0-3750	Tier 0.....	
Methanol.....	0-3750	Tier 1.....	0.10
Methanol.....	3751-5750	Tier 0.....	
Methanol.....	3751-5750	Tier 1.....	0.10

¹ The applicable useful life is 10 years or 100,000 miles, whichever first occurs, except that no enforcement testing will be done beyond 7 years or 75,000 miles, whichever first occurs.

(B)(1)(i) Sales percentages for the purposes of determining compliance with paragraph (a)(1)(i)(A) of this section shall be based on total actual U.S. sales of light-duty vehicles of the applicable model year by a manufacturer to a dealer, distributor, fleet operator, broker, or any other entity which comprises the point of first sale. If the option of paragraph (a)(1)(i)(A)(3) is taken, such sales percentages shall be based on the total actual combined U.S. sales of light-duty vehicles and light light-duty trucks of the applicable model year by a manufacturer to a dealer, distributor, fleet operator, broker, or any other entity which comprises the point of first sale.

(ii) The manufacturer may petition the Administrator to allow actual volume produced for U.S. sale to be used in lieu of actual U.S. sales for purposes of determining compliance with the implementation schedule sales percentages of Tables H94-8 and H94-11 of this section. Such petition shall be submitted within 30 days of the end of the model year to the Manufacturers Operations Division. For the petition to be granted, the manufacturer must establish to the satisfaction of the Administrator that actual production volume is functionally equivalent to actual sales volume.

(iii) The vehicles that are counted toward the implementation schedule sales percentage, or toward the total on which such percentage is based, for certification purposes as prescribed by § 86.094-9(a)(1)(i)(B)(1)(iii) of subpart A of this part, shall be the same vehicles that are counted toward the implementation schedule sales percentage, or the total on which it is based, for in-use purposes.

(iv) Small volume manufacturers, as defined in § 86.092-14(b) (1) and (2), are exempt from the implementation schedules of Table H94-8 of this section for model years 1994 through 1997 and from the implementation schedules of Table H94-11 of this section for model

years 1995 and 1996. For small volume manufacturers, Tier 0 standards of Tables H94-9 and H94-10 continue to apply until model year 1998 and the Tier 0 standards of Tables H94-12 and H94-13 continue to apply until model year 1997, when one hundred percent compliance with the Tier 1 standards of such tables is required. This exemption does not apply to small volume engine families as defined in § 86.092-14 (b)(5).

(2)(i) For 1994 and 1995 model year light light-duty trucks, the engine families which comprise the required implementation schedule percentage of sales meeting Tier 1 standards for HCs, CO, and NOx, for purposes of certification, shall be the same engine families which comprise the required implementation schedule percentage of sales meeting the interim in-use standards (labeled "Tier 1" in the tables of in-use standards) for in-use purposes.

(ii) For 1996 and 1997 model year light light-duty trucks, the engine families which comprise the required implementation schedule percentage of sales meeting interim in-use standards (labeled "Tier 1" in the tables of in-use standards) and final in-use standards (labeled "Tier 1" in the tables of in-use standards) respectively, for HCs, CO, and NOx, for in-use purposes, shall be designated by the manufacturer at the time of certification.

(iii) For 1995 and 1996 model year light light-duty trucks, the engine families which comprise the required implementation schedule percentage of sales meeting Tier 1 standards, for PM, for purposes of certification, shall be the same engine families which comprise the required implementation schedule percentage of sales meeting the final in-use standards (labeled "Tier 1" in the tables of in-use standards) for PM for in-use purposes.

(3) The manufacturer must state at the time of Application for Certification, based on projected U.S. sales or projected production for U.S. sale, which families will be used to attain the

required implementation schedule sales percentages for in-use purposes.

(4) A manufacturer can not use one set of engine families to meet its in-use intermediate useful life standards and another to meet its in-use full useful life standards. The same families which are used to meet the intermediate useful life standards will be required without deviation to meet the corresponding full useful life standards.

(ii) *Heavy light-duty trucks.* In-use exhaust emissions from 1994 and later model year heavy light-duty trucks shall meet all standards in Tables H94-15 and H94-16 in the rows designated with the applicable fuel type and loaded vehicle weight or adjusted loaded vehicle weight, as applicable, according to the implementation schedule in Table H94-14, and shall meet all standards in Tables H94-18 and H94-19 in the rows designated with the applicable fuel type and loaded vehicle weight or adjusted loaded vehicle weight, as applicable, according to the implementation schedules in Table H94-17, as follows:

(A)(1)(i) For model years 1994 through 1997, a minimum of the percentage shown in the Tier 1, column of Table H94-14 of a manufacturer's sales of the applicable model year's heavy light-duty trucks shall not exceed the applicable Tier 1, standards in Tables H94-15 and H94-16. The remaining vehicles, if any, shall not exceed the applicable Tier 0 standards in Tables H94-15 and H94-16.

(ii) For model year 1998, a minimum of the percentage shown in Table H94-14 of a manufacturer's sales of the applicable model year's heavy light-duty trucks shall not exceed the applicable Tier 1 standards in Tables H94-15 and H94-16. The remaining vehicles shall not exceed the applicable Tier 1, standards in Tables H94-15 and H94-16.

(iii) For model years 1999 and later, a minimum of the percentage shown in Table H94-14 of a manufacturer's sales of the applicable model year's heavy light-duty trucks shall not exceed the

applicable Tier 1 standards in Tables H94-15 and H94-18.

(2) *Particulates.* For in-use exhaust emissions for model year 1994 and later,

a minimum of the percentage shown in Table H94-17 of a manufacturer's sales of the applicable model year's heavy light-duty trucks shall not exceed the applicable Tier 1 standards in Tables

H94-18 and H94-19. The remaining heavy light-duty trucks, if any, shall not exceed the applicable Tier 0 standards in Tables H94-18 and H94-19.

TABLE H94-14.—IMPLEMENTATION SCHEDULE FOR HEAVY LIGHT-DUTY TRUCKS FOR HCs, CO AND NO_x

Model year	Tier 1, PERCENTAGE	Tier 1 percentage
1994.....	0%	0%
1995.....	0%	0%
1996.....	50%	0%
1997.....	100%	0%
1998.....	50%	50%
after 1998.....	0%	100%

TABLE H94-15.—INTERMEDIATE USEFUL LIFE ¹ STANDARDS (G/M) FOR HEAVY LIGHT-DUTY TRUCKS FOR HCs, CO AND NO_x

Fuel	LVW (lbs)	ALVW (lbs)	Standards	THC	NMHC	OMHCE	OMNMHCE	CO	NO _x
Gasoline.....	0-3750		Tier 0.....	0.80				10	1.2
Gasoline.....	> 3750		Tier 0.....	0.80				10	1.7
Gasoline.....		3751-5750	Tier 1 _i	0.80	0.40			5.5	0.88
Gasoline.....		3751-5750	Tier 1.....	0.80	0.32			4.4	0.7
Gasoline.....		> 5750	Tier 1 _i	0.80	0.49			6.2	1.38
Gasoline.....		> 5750	Tier 1.....	0.80	0.39			5.0	1.1
Diesel.....	0-3750		Tier 0.....	0.80				10	1.2
Diesel.....	> 3750		Tier 0.....	0.80				10	1.7
Diesel.....	0-3750	3751-5750	Tier 1 _i	0.80	0.40			5.5	1.2
Diesel.....	> 3750	3751-5750	Tier 1 _i	0.80	0.40			5.5	1.7
Diesel.....		3751-5750	Tier 1.....	0.80	0.32			4.4	0.98
Diesel.....	0-3750	> 5750	Tier 1 _i	0.80	0.49			6.2	1.2
Diesel.....	> 3750	> 5750	Tier 1 _i	0.80	0.49			6.2	1.7
Diesel.....		> 5750	Tier 1.....	0.80	0.39			5.0	1.53
Methanol.....	0-3750		Tier 0.....	0.80				10	1.2
Methanol.....	> 3750		Tier 0.....	0.80				10	1.7
Methanol.....		3751-5750	Tier 1 _i			0.80	0.40	5.5	0.88
Methanol.....		3751-5750	Tier 1.....			0.80	0.32	4.4	0.7
Methanol.....		> 5750	Tier 1 _i			0.80	0.49	6.2	1.38
Methanol.....		> 5750	Tier 1.....			0.80	0.39	5.0	1.1

¹ The applicable useful life is 5 years or 50,000 miles, whichever first occurs.

TABLE H94-16.—FULL USEFUL LIFE STANDARDS (G/M) FOR HEAVY LIGHT-DUTY TRUCKS FOR HCs, CO AND NO_x

Fuel	LVW (lbs)	ALVW (lbs)	Standards	THC ²	NMHC ¹	OMHCE ²	OMNMHCE ¹	CO ¹	NO _x ¹
Gasoline.....	0-3750		Tier 0.....	0.80				10	1.2
Gasoline.....	> 3750		Tier 0.....	0.80				10	1.7
Gasoline.....		3751-5750	Tier 1 _i	0.80					
Gasoline.....		3751-5750	Tier 1.....	0.80	0.46			6.4	0.98
Gasoline.....		> 5750	Tier 1 _i	0.80					
Gasoline.....		> 5750	Tier 1.....	0.80	0.56			7.3	1.53
Diesel.....	0-3750		Tier 0.....	0.80				10	1.2
Diesel.....	> 3750		Tier 0.....	0.80				10	1.7
Diesel.....		3751-5750	Tier 1 _i	0.80					
Diesel.....		3751-5750	Tier 1.....	0.80	0.46			6.4	0.98
Diesel.....		> 5750	Tier 1 _i	0.80					
Diesel.....		> 5750	Tier 1.....	0.80	0.56			7.3	1.53
Methanol.....	0-3750		Tier 0.....			0.80		10	1.2
Methanol.....	> 3750		Tier 0.....			0.80		10	1.7
Methanol.....		3751-5750	Tier 1 _i			0.80			
Methanol.....		3751-5750	Tier 1.....			0.80	0.46	6.4	0.98
Methanol.....		> 5750	Tier 1 _i			0.80			
Methanol.....		> 5750	Tier 1.....			0.80	0.56	7.3	1.53

¹ The applicable useful life is 11 years or 120,000 miles, whichever first occurs, except that no enforcement testing will be done beyond 7 years or 90,000 miles, whichever first occurs.

² The applicable useful life is 11 years or 120,000 miles, whichever first occurs.

TABLE H94-17.—IMPLEMENTATION SCHEDULE FOR HEAVY LIGHT-DUTY TRUCKS FOR PM

Model year	Tier 1 percentage
1994	0
1995	0
1996	50
after 1996	100

TABLE H94-18.—INTERMEDIATE USEFUL LIFE¹ STANDARDS (G/Mi) FOR HEAVY LIGHT-DUTY TRUCKS FOR PM

Fuel	LVW (lbs)	ALVW (lbs)	Standards	PM
Gasoline	0-3750		Tier 0	
Gasoline	> 3750		Tier 0	
Gasoline		3751-5750	Tier 1	0.10
Gasoline		> 5750	Tier 1	0.12
Diesel	0-3750		Tier 0	0.26
Diesel	> 3750		Tier 0	0.13
Diesel		3751-5750	Tier 1	0.10
Diesel		> 5750	Tier 1	0.12
Methanol	0-3750		Tier 0	
Methanol	> 3750		Tier 0	
Methanol		3751-5750	Tier 1	0.10
Methanol		> 5750	Tier 1	0.12

¹ The applicable useful life is 5 years or 50,000 miles, whichever first occurs.

TABLE H94-19.—FULL USEFUL LIFE¹ STANDARDS (G/Mi) FOR HEAVY LIGHT-DUTY TRUCKS FOR PM

Fuel	LVW (lbs)	ALVW (lbs)	Standards	PM
Gasoline	0-3750		Tier 0	
Gasoline	> 3750		Tier 0	
Gasoline		3751-5750	Tier 1	0.10
Gasoline		> 5750	Tier 1	0.12
Diesel	0-3750		Tier 0	0.26
Diesel	> 3750		Tier 0	0.13
Diesel		3751-5750	Tier 1	0.10
Diesel		> 5750	Tier 1	0.12
Methanol	0-3750		Tier 0	
Methanol	> 3750		Tier 0	
Methanol		3751-5750	Tier 1	0.10
Methanol		> 5750	Tier 1	0.12

¹ The applicable useful life is 11 years or 120,000 miles, whichever first occurs, except that no enforcement testing will be done beyond 7 years or 90,000 miles, whichever first occurs.

(B)(1)(i) Sales percentages for the purposes of determining compliance with paragraph (a)(1)(ii)(A) of this section shall be based on total actual U.S. sales of light-duty vehicles of the applicable model year by a manufacturer to a dealer, distributor, fleet operator, broker, or any other entity which comprises the point of first sale.

(ii) The manufacturer may petition the Administrator to allow actual volume produced for U.S. sales to be used in lieu of actual U.S. sales for purposes of determining compliance with the

implementation schedule sales percentages of Tables H94-14 and H94-17 of this section. Such petition shall be submitted within 30 days of the end of the model year to the Manufacturers Operations Division. For the petition to be granted, the manufacturer must establish to the satisfaction of the Administrator that actual production volume is functionally equivalent to actual sales volume.

(iii) The vehicles that are counted toward the implementation schedule sales percentage, or toward the total on which such percentage is based, for certification purposes as prescribed by § 86.094-9(a)(1)(ii)(B)(1)(iii) of subpart A of this part, shall be the same vehicles that are counted toward the implementation schedule sales percentage, or the total on which it is based, for in-use purposes.

(iv) Small volume manufacturers, as defined in § 86.092-14(b)(1) and (2), are exempt from the implementation schedules of Tables H94-14 of this section for model years 1996 through 1998 and from the implementation schedules of Table H94-17 of this section for model year 1996. For small volume manufacturers, Tier 0 standards of Tables H94-15 and H94-16 continue to apply until model year 1999 and the Tier 0 standards of Tables H94-18 and H94-19 continue to apply until model year 1997, when one hundred percent compliance with the Tier 1 standards of such tables is required. This exemption does not apply to small volume engine families as defined in § 86.092-14(b)(5).

(2)(i) For 1996 and 1997 model year heavy light-duty trucks, the engine families which comprise the required implementation schedule percentage of sales meeting Tier 1 standards for HCs, CO, and NOx, for purposes of certification, shall be the same engine families which comprise the required implementation schedule percentage of sales meeting the interim in-use standards (labeled "Tier 1_i" in the tables of in-use standards) for in-use purposes.

(ii) For 1998 model year heavy light-duty trucks the engine families which comprise the required implementation schedule percentage of sales meeting interim in-use standards (labeled "Tier 1_i" in the tables of in-use standards) and final in-use standards (labeled "Tier 1" in the tables of in-use standards) for HCs, CO, and NOx, for in-use purposes, shall be designated by the manufacturer at the time of certification.

(iii) For 1996 model year heavy light-duty trucks, the engine families which comprise the required implementation schedule percentage of sales meeting Tier 1 standards, for PM, for purposes of

certification, shall be the same engine families which comprise the required implementation schedule percentage of sales meeting the final in-use standards (labeled "Tier 1" in the tables of in-use standards) for PM for in-use purposes.

(3) The manufacturer must state at the time of Application for Certification, based on projected U.S. sales or projected production for U.S. sale, which families will be used to attain the required implementation schedule sales percentages.

(4) A manufacturer can not use one set of engine families to meet its in-use intermediate useful life standards and another to meet its in-use full useful life standards. The same families which are used to meet the intermediate useful life standards will be required without deviation to meet the corresponding full useful life standards.

(iii) Exhaust emissions of carbon monoxide from 1994 and later model year light-duty trucks shall not exceed 0.50 percent of exhaust gas flow at curb idle at a useful life of 11 years or 120,000 miles, whichever first occurs (for Otto-cycle and methanol-fueled diesel-cycle light-duty trucks only).

(iv)(A) Engine families participating in the applicable NOx averaging program as specified in § 86.094-9(a)(1)(iv)(A) shall be subject, for purposes of in-use compliance, to the NOx family emission limit determined for that engine family for certification purposes, in lieu of the appropriate NOx standard shown in the tables of in-use standards in this section.

(B) Engine families participating in the applicable particulate averaging program as specified in § 86.094-9(a)(1)(iv)(B) shall be subject, for purposes of in-use compliance, to the particulate family emission limit determined for that engine family for certification purposes, in lieu of the appropriate particulate standard shown in the tables of in-use standards in this section.

(2) The standards set forth in paragraphs (a)(1)(i) and (a)(1)(ii) of this section refer to the exhaust emitted over a driving schedule as set forth in subpart B of this part and measured and calculated in accordance with those procedures. The test weight basis for light light-duty trucks, and for heavy light-duty trucks certified to the Tier 0 standards of this section, for the purposes of determining equivalent test weight as prescribed in § 86.129-94, shall be loaded vehicle weight. The test weight basis for heavy light-duty trucks certified to the Tier 1 or Tier 1_i standards of this section, for the purposes of determining equivalent test

weight as prescribed in § 86.129-94, shall be adjusted loaded vehicle weight. The standard set forth in paragraph (a)(1)(iii) of this section refers to the exhaust emitted at curb idle and measured and calculated in accordance with the procedures set forth in subpart P of this part.

(b) The provisions of § 86.094-9 (b) through (j) of subpart A of this part apply to this section.

§ 86.709-99 In-use emission standards for 1999 and later model year light-duty trucks.

Section 86.709-99 includes text that specifies requirements that differ from § 86.091-9 of subpart A of this part. Where a paragraph in § 86.091-9 is identical and applicable to § 86.709-99, this may be indicated by specifying the corresponding paragraph and the statement "[Reserved]. For guidance see § 86.091-9." Where a corresponding

paragraph of § 86.091-9 is not applicable, this is indicated by the statement "[Reserved]."

(a)(1)(i)(A) *Light light-duty trucks.* In-use exhaust emissions from 1999 and later model year light light-duty trucks shall meet all standards in Tables H99-1 and H99-2 in the rows designated with the applicable fuel type and loaded vehicle weight.

TABLE H99-1.—INTERMEDIATE USEFUL LIFE¹ STANDARDS (G/Mi) FOR LIGHT LIGHT-DUTY TRUCKS

Fuel	LVW (lbs)	THC	NMHC	OMHCE	OMNMHCE	CO	NOx	PM
Gasoline.....	0-3750	0.80	0.25			3.4	0.4	0.08
Gasoline.....	3751-5750	0.80	0.32			4.4	0.7	0.08
Diesel.....	0-3750	0.80	0.25			3.4	1.0	0.08
Diesel.....	3751-5750	0.80	0.32			4.4	0.97	0.08
Methanol.....	0-3750			0.80	0.25	3.4	0.4	0.08
Methanol.....	3751-5750			0.80	0.32	4.4	0.7	0.08

¹ The applicable useful life is 5 years or 50,000 miles, whichever first occurs.

TABLE H99-2.—FULL USEFUL LIFE STANDARDS (G/Mi) FOR LIGHT LIGHT-DUTY TRUCKS

Fuel	LVW (lbs)	THC ^a	NMHC ¹	OMHCE ²	OMNMHCE ¹	CO ¹	NOx ¹	PM ¹
Gasoline.....	0-3750	0.80	0.31			4.2	0.6	0.10
Gasoline.....	3751-5750	0.80	0.40			5.5	0.97	0.10
Diesel.....	0-3750	0.80	0.31			4.2	1.25	0.10
Diesel.....	3751-5750	0.80	0.40			5.5	0.97	0.10
Methanol.....	0-3750			0.80	0.31	4.2	0.6	0.10
Methanol.....	3751-5750			0.80	0.40	5.5	0.97	0.10

¹ The applicable useful life is 10 years or 100,000 miles, whichever first occurs, except that no enforcement testing will be done beyond 7 years or 75,000 miles, whichever first occurs.

² The applicable useful life is 11 years or 120,000 miles, whichever first occurs.

(B)(1) Vehicles subject to the standards of paragraph (a)(1)(i)(A) of this section shall be all actual U.S. sales of light light-duty trucks of the applicable model year by a manufacturer.

(2) A manufacturer can not use one set of engine families to meet its in-use

intermediate useful life standards and another to meet its in-use full useful life standards. The same families which are used to meet the intermediate useful life standards will be required without deviation to meet the corresponding full useful life standards.

(ii)(A) *Heavy light-duty trucks.* In-use exhaust emissions from 1999 and later model year heavy light-duty trucks shall meet all standards in Tables H99-3 and H99-4 in the rows designated with the applicable fuel type and adjusted loaded vehicle weight.

TABLE H99-3.—INTERMEDIATE USEFUL LIFE¹ STANDARDS (G/Mi) FOR HEAVY LIGHT-DUTY TRUCKS

Fuel	ALVW (lbs)	THC	NMHC	OMHCE	OMNMHCE	CO	NOx	PM
Gasoline.....	3751-5750	0.80	0.32			4.4	0.7	0.10
Gasoline.....	> 5750	0.80	0.39			5.0	1.1	0.12
Diesel.....	3751-5750	0.80	0.32			4.4	0.98	0.10
Diesel.....	> 5750	0.80	0.39			5.0	1.53	0.12
Methanol.....	3751-5750			0.80	0.32	4.4	0.7	0.10
Methanol.....	> 5750			0.80	0.39	5.0	1.1	0.12

¹ The applicable useful life is 5 years or 50,000 miles, whichever first occurs.

TABLE H99-4.—FULL USEFUL LIFE¹ STANDARDS (G/Mi) FOR HEAVY LIGHT-DUTY TRUCKS

Fuel	ALVW (lbs)	THC ^a	NMHC ¹	OMHCE ²	OMNMHCE ¹	CO ¹	NOx ¹	PM ¹
Gasoline.....	3751-5750	0.80	0.46			6.4	0.98	0.10
Gasoline.....	> 5750	0.80	0.56			7.3	1.53	0.12
Diesel.....	3751-5750	0.80	0.46			6.4	0.98	0.10
Diesel.....	> 5750	0.80	0.56			7.3	1.53	0.12
Methanol.....	3751-5750			0.80	0.46	6.4	0.98	0.10
Methanol.....	> 5750			0.80	0.56	7.3	1.53	0.12

¹ The applicable useful life is 11 years or 120,000 miles, whichever first occurs, except that no enforcement testing will be done beyond 7 years or 90,000 miles, whichever first occurs.

² The applicable useful life is 11 years or 120,000 miles, whichever first occurs.

(B)(1) Vehicles subject to the standards of paragraph (a)(1)(ii)(A) of this section shall be all actual U.S. sales of heavy light-duty trucks of the applicable model year by a manufacturer.

(2) A manufacturer can not use one set of engine families to meet its in-use intermediate useful life standards and another to meet its in-use full useful life standards. The same families which are used to meet the intermediate useful life standards will be required without deviation to meet the corresponding full useful life standards.

(iii) Exhaust emissions of carbon monoxide from 1999 and later model

year light-duty trucks shall not exceed 0.50 percent of exhaust gas flow at curb idle at a useful life of 11 years or 120,000 miles, whichever first occurs (for Otto-cycle and methanol-fueled diesel-cycle light-duty trucks only)

(2) The standards set forth in paragraphs (a)(1)(i) and (a)(1)(ii) of this section refer to the exhaust emitted over a driving schedule as set forth in subpart B of this part and measured and calculated in accordance with those procedures. The test weight basis for light light-duty trucks, for the purposes of determining equivalent test weight as prescribed in § 86.129-94, shall be loaded vehicle weight. The test weight

basis for heavy light-duty trucks, for the purposes of determining equivalent test weight as prescribed in § 86.129-94, shall be adjusted loaded vehicle weight. The standard set forth in paragraph (a)(1)(iii) of this section refers to the exhaust emitted at curb idle and measured and calculated in accordance with the procedures set forth in subpart P of this part.

(b) The provisions of § 86.097-9 (b), (c), and (g) through (j) of subpart A of this part apply to this section.

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Federal Register

Wednesday
June 5, 1991

Part III

Department of Health and Human Services

Health Care Financing Administration

42 CFR Parts 405 and 415

Medicare Program; Fee Schedule for
Physicians' Services; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405 and 415

[BPD-2-P]

RIN 0938-AE91

Medicare Program; Fee Schedule for Physicians' Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth a fee schedule for payment for physicians' services beginning January 1, 1992. Establishment of this fee schedule is required by section 6102(a) of the Omnibus Budget Reconciliation Act of 1989, as amended by the Omnibus Budget Reconciliation Act of 1990. This proposed rule explains which services would be included in the fee schedule and sets forth the formula for computing payment amounts. Application of transition rules during 1992 through 1995 is also described, as well as other adjustments to fee schedule payment amounts.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on August 5, 1991.

ADDRESSES: Mail comments to the following address:

Health Care Financing Administration,
Department of Health and Human
Services, Attention: BPD-712-P, P.O.
Box 26686, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey
Building, 200 Independence Avenue
SW., Washington, DC, or
Room 132, East High Rise Building, 6325
Security Boulevard, Baltimore,
Maryland.

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments. In commenting, please refer to file code BPD-712-P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in room 309-G of the Department's offices at 200 Independence Avenue SW., Washington, DC., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202-245-7890).

If you wish to submit comments on the information collection requirements

contained in this proposed rule, you may submit comments to: Allison Herron, HCFA Desk Officer, Office of Information and Regulatory Affairs, Room 3002, New Executive Office Building, Washington, DC 20503.

Copies: To order copies of the *Federal Register* containing this document, send your request to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 783-3238 or by faxing to (202) 275-6802. The cost for each copy (in paper or microfiche form) is \$1.50. In addition, you may view and photocopy the *Federal Register* document at most libraries designated as U.S. Government Depository Libraries and at many other public and academic libraries throughout the country that receive the *Federal Register*. The order desk operator will be able to tell you the location of the Government Depository Library nearest to you.

FOR FURTHER INFORMATION CONTACT:
Terrence L. Kay, (301) 966-4494.

SUPPLEMENTARY INFORMATION:

Overview

In this proposed rule, we explain in detail the statutory authority for the physician fee schedule and the provisions of the regulations we propose under that authority. Addenda to the rule provide technical documentation to the fee schedule tables, tables containing proposed relative values for physician services and geographic practice cost index values, and information to assist readers in obtaining documents referenced in the proposed rule.

This proposed rule would add a new 42 CFR part 415 to apply to physicians' services furnished beginning on January 1, 1992. Existing rules pertaining to reasonable charge payment at 42 CFR part 405 subpart E would be amended to reflect the narrower application of reasonable charge principles once the physician fee schedule becomes effective.

The information in this proposed rule updates the information supplied September 4, 1990 in the model fee schedule notice (55 FR 36178). Comments on the model fee schedule have been considered in developing the policies proposed here. (If commenters wish to have their comments summarized and responded to in the

Federal Register, they should comment on this proposed rule and we will respond to them in the final rule.)

To assist readers in referencing sections contained in this proposed rule, we are providing the following table of contents:

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- In addition, because of the many agencies and terms to which we refer by acronym in this proposed rule, we are listing those acronyms and their corresponding terms in alphabetical order below:
- AA—Anesthetist assistant
 ACR—American College of Radiology
 ACS—American College of Surgeons
 AMA—American Medical Association
 ASC—Ambulatory surgical center
 BMAD—[Part] B Medicare Annual Data
 CAT—Computerized axial tomography
 CBO—Congressional Budget Office
 CF—Conversion factor
 CFR—Code of Federal Regulations
 CHER—Center for Health Economics Research
 CNIBM Laser—CoverageHPLAIIID.PRSIition (copyrighted by the American Medical Association (1991))
 CRNA—Certified registered nurse anesthetist
 CSW—Clinical social worker
 CWF—Common working file
 CY—Calendar year
 DHHS—Department of Health and Human Services
 DME—Durable medical equipment
 DO—Doctor of Osteopathy
 DRG—Diagnosis-related group
 EEG—Electroencephalogram
 EKG—Electrocardiogram
 EO—Executive Order
 FY—Fiscal year
 GAF—Geographic adjustment factor
 GPCL—Geographic practice cost index
 HHA—Home health agency
 HCFA—Health Care Financing Administration
 HCPCS—HCFA Common Procedure Coding System
 HHS—Department of Health and Human Services
 HI—Hospital Insurance (Part A of the Medicare Program)
 HMO—Health maintenance organization
 HMSA—Health Manpower Shortage Area
 ICF—Intermediate care facility
 ID—Identification
 IIC—Inflation-indexed charge
 MAAC—Maximum Allowable Actual Charge
 MAC—Monitored Anesthesia Care
 MCP—Monthly Capitation Payment
 MD—Doctor of Medicine
 MEI—Medicare Economic Index
 MP—Multiple patient
 MRI—Magnetic resonance imaging
 MSA—Metropolitan statistical area
 MVPS—Medicare volume performance standards
 NAMCS—National Ambulatory Medical Care Survey
 NCH—National Claims History
 NCHS—National Center for Health Statistics
 NF—Nursing facility
 NM—Nurse midwife
 NP—Nurse practitioner
 OBRA—Omnibus Budget Reconciliation Act
 OIG—Office of the Inspector General
 OMB—Office of Management and Budget
 OT—Occupational therapist
 PA—Physician assistant
 PBP—Provider-based physician
 PET—Provider Education and Training
 PHS—Public Health Service
 Pub. L.—Public Law
 PPRC—Physician Payment Review Commission
 PPR—Physician Payment Reform
 PROs—[Utilization and Quality Control] Peer Review Organizations

PT—Physical therapist
 RFA—Regulatory Flexibility Act
 RVU—Relative value unit
 S&I—Supervision and interpretation (relates to coding of radiological services)
 SMI—Supplementary Medical Insurance (Part B of the Medicare Program)
 SNF—Skilled nursing facility
 SP—Single patient
 TEFR—Tax Equity and Fiscal Responsibility Act of 1982
 UI—Urban Institute

Background

I. Legislative History

The Medicare program was established in 1965 by the addition of title XVIII to the Social Security Act (the Act). The Social Security Amendments of 1965 created two insurance programs: Medicare Part A or Hospital Insurance and Medicare Part B or Supplementary Medical Insurance. These original statutory provisions established the principles of reasonable charge payment for physicians' services and certain other services under part B. The key provisions governing the reasonable charge payment methodology are set forth in sections 1833 and 1842(b) of the Act and in 42 CFR part 405, subpart E. While statutory amendments have moved certain part B services such as radiologists' services, durable medical equipment (DME) and clinical laboratory services from reasonable charge payment to a fee schedule, physicians' services have generally been paid based on reasonable charge principles throughout the first 25 years of the program's operation.

In general, the reasonable charge for a physician's service is the lowest of (1) the physician's actual charge, (2) the physician's customary charge, or (3) the prevailing charge in the locality for similar services. The customary charge is the median charge of the physician for the service during the July through June data collection period preceding the current calendar year. These charges are arrayed in ascending order and the median or midpoint of the charge data is selected as the customary charge. The prevailing charge limit for a particular service in a locality is an amount set high enough to cover the full customary charges of the physicians whose billings have accounted for at least 75 percent of the charges in the locality for that service. Since 1975, changes in prevailing charge limits from year to year have been constrained by statute to the amount of inflation in medical costs as measured by the Medicare Economic Index (MEI).

A major change in Medicare physician payment rules was enacted as part of the Omnibus Budget Reconciliation Act (OBRA) of 1989 (Pub. L. 101-239) on

December 19, 1989. Section 6102 of Pub. L. 101-239 amended title XVIII of the Act by adding a new section 1848, "Payment for Physicians' Services". The new section contains three major elements: (1) Establishment of volume performance standard rates of increase for physician services expenditures; (2) replacement of the reasonable charge payment mechanism with a new fee schedule for physicians' services; and (3) replacement of the maximum actual allowable charge (MAAC), which constrains the total amounts that non-participating physicians can charge Medicare beneficiaries for covered services, with a new limiting charge.

On November 5, 1990, Congress enacted Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990, which contained several modifications and clarifications to the Public Law 101-239 provisions establishing the physician payment fee schedule. These modifications have been taken into account throughout this proposed rule. Public Law 101-508 also made a number of revisions to physician payment amounts for 1991, which will affect payment amounts under the fee schedule, given the budget neutrality requirement for 1992 and the transition rules. (Budget neutrality is explained more fully below in the discussion of the conversion factor (CF).)

This proposed rule is being issued in accordance with section 1848(b)(1) of the Act as added by section 6102 of Public Law 101-239, which requires that: "Before January 1 of each year beginning with 1992, the Secretary shall establish, by regulation, fee schedules that establish payment amounts for all physicians' services furnished in all fee schedule areas * * * for the year * * *". Section 1848 requires that the fee schedule include national uniform relative values for all physicians' services. The relative value of each service must be the sum of relative value units (RVUs) representing physician work, practice expenses net of malpractice expenses, and the cost of professional liability insurance (malpractice insurance). Nationally uniform relative values must be adjusted for each locality by a geographic adjustment factor (GAF). (Only one-fourth of the physician work relative value is subject to adjustment.) The CF (converting total RVUs into dollar payment amounts) is to be budget neutral, so that had the fee schedule been applied during 1991 it would have resulted in the same level of aggregate payments as would be made under the reasonable charge system. The new fee schedule must be phased in over 4 years, beginning in 1992, with the new

rules fully effective in 1996. During 1992 through 1995, transition provisions generally blend the old payment amounts with the new. In addition, this proposed rule sets forth a limit on amounts that nonparticipating physicians can charge beneficiaries under section 1848(g) of the Act.

II. Early Development of the Fee Schedule

Development of the concepts and methodology underlying the new physician fee schedule has been under way for a number of years. Based on Congressional mandates contained in Public Law 99-272 (Consolidated Omnibus Budget Reconciliation Act of 1985), Public Law 99-509 (OBRA of 1986) and Public Law 100-203 (OBRA of 1987), we have devoted considerable effort to the development of a physician fee schedule based on a relative value scale. We have been assisted in this task by a number of experts inside and outside of government, including the research team at the Harvard University School of Public Health led by William Hsiao, Ph.D. The Harvard research team produced "A National Study of Resource-Based Relative Value Scales for Physician Services" (September 1988) and "A National Study of Resource-Based Relative Value Scales for Physician Services Phase II" (November 1990) under a cooperative agreement with us. Other invaluable contributions were made by the Physician Payment Review Commission (PPRC), whose analyses and recommendations have been extremely helpful to us at every stage of fee schedule development. The Urban Institute and the Center for Health Economics Research (UI/CHER) were instrumental in the creation and refinement of the geographic practice cost indices (GPCIs), which were used to create the GAFs. CHER also provided assistance in providing data and analyses in support of developing the global surgery and anesthesia service payment policies.

Under the statutory mandates listed above, we submitted three reports to Congress in October of 1989 ("Volume and Intensity of Physician Services", "Relative Value Scales for Physician Services", and "Implementation of a National Fee Schedule") that summarized the results of extensive research and analysis relating to the possible implementation of a Medicare physician fee schedule. These reports reviewed both the theoretical and practical ramifications of the transition to a fee schedule and simulated the

effects of the change under various assumptions.

When Public Law 101-239 was enacted 2 months after the submission of these reports, the new law prescribed many of the procedures and methods to be used in implementation of the fee schedule on January 1, 1992, but a number of key payment policy and technical issues were left to the Secretary for resolution. Thus section 6102(f)(11) of Public Law 101-239 required the Secretary to submit to the Congress and make available to the public a "model fee schedule" by September 1, 1990, in order to provide an early opportunity for public review of the fee schedule methodology. The model fee schedule was to include " * * * as many services as the Secretary concludes can be assigned valid relative values".

The model fee schedule was published on September 4, 1990 as part of a notice with comment period (55 FR 36178). Its narrative portions described the statutory requirements, listed and explained the technical and policy issues left to the Secretary's discretion, and described steps that had been taken and that were planned in order to resolve the outstanding issues. Preferred options were identified in some cases; in other cases, options were discussed without identification of a preferred approach. The addenda to the model fee schedule notice provided preliminary estimates of the relative values associated with the approximately 1,400 services studied as part of the Harvard Phase I study as well as preliminary values for GPCIs for all existing Medicare localities. Using these tables, readers could compute very preliminary estimates of payment amounts for particular services in particular localities under the fee schedule. A 60-day public comment period was provided; comments received were considered carefully and were helpful to us in developing this proposed rule.

III. Future Implementation Steps

Since the publication of the model fee schedule on September 4, 1990, we have received the Phase II final report of the Harvard research team, which contains relative values for more than 4,000 services, representing about 95 percent of Medicare payments for physicians' services for the included specialties. In Phase II, 15 additional medical and surgical specialties were studied that were not studied in Phase I. In addition, seven Phase I specialties were restudied, with four of these restudies funded by the specialty societies. Not only did Phase II almost triple the number of services for which RVUs

have been produced, but it refined the RVUs for the original 1,400 services.

Phase III of the Harvard study is now in progress; it is expected to produce RVUs for most of the remaining Medicare-covered services. In addition, use of small groups of physicians to detect and correct anomalous values in the existing set of RVUs (especially values based on extrapolation) is included in Phase III. Phase III results are expected during the summer of 1991. (More detail on the Harvard study is provided in section IV. C. 1. concerning physician work RVUs.)

Section 1848(d)(1)(C) of the Act requires publication of the CF between October 16 and October 31 of 1991. Publication of the final rule by this date will allow us to incorporate almost all the Phase III results (that is, those received by June 1991) as well as more current data with respect to historical charges than was available for this proposed rule. This schedule for the final rule will also allow time for incorporation of any changes in response to comments on the proposed rule received during the 60-day comment period. A 60-day comment period should also allow adequate time for the Medicare carriers, which process claims for physicians' services, to make final adjustments to their systems before implementation on January 1, 1992. We expect that the 1992 participating physician enrollment will be conducted during the period November 16, 1991 through December 31, 1991. As has been our practice in the past, we intend to send physicians a letter informing them of the program changes and the upcoming participation decision. With the letter, we expect to send them fee schedule rates as specified in section 1848(h) of the Act.

Description of Specific Statutory Requirements and Proposed Implementing Regulations

IV. Description of the Fee Schedule

A. Services to be Included in the Fee Schedule

1. Physicians' Services—General

Section 1848(a)(1) of the Act (as added by section 6102 of Public Law 101-239) requires that payment be made under a Medicare fee schedule for " * * * all physicians' services (as defined in subsection (j)(3)) * * *". Subsection (j)(3) of section 1848 of the Act defines "physicians' services" for purposes of the Medicare fee schedule as including:

Items and services described in paragraphs (1), (2)(A), (2)(D), (3) and (4) of section 1861(s) (other than clinical diagnostic laboratory

tests and such other items and services as the Secretary may specify).

The services identified in the law and the sections of the Act where they appear follow:

- 1861(s)(1)—"physicians' services"—these services are defined as the professional services of physicians as defined in sections 1861(q) and (r).
- 1861(s)(2)(A)—"services and supplies * * * furnished as an incident to a physician's professional service * * *".
- 1861(s)(2)(D)—"outpatient physical therapy services and outpatient occupational therapy services."
- 1861(s)(3)—"diagnostic X-ray tests * * *, diagnostic laboratory tests, and other diagnostic tests."
- 1861(s)(4)—"X-ray, radium, and radioactive isotope therapy, including materials and services of technicians."

If the service is one of the enumerated services and is currently paid based on reasonable charges or on a fee schedule basis in the case of radiologist services, payment would be made under the physician fee schedule regardless of whether a physician or other entity (for example, an independently practicing physical therapist (PT)) furnished the service. If the service is currently paid on a reasonable cost basis, payment would continue on a reasonable cost basis (for example, physical therapy furnished by a home health agency (HHA) to an HHA patient or the technical component of radiology services furnished in a hospital outpatient department to a hospital patient). Other nonphysician services not enumerated in section 1848(j)(3) of the Act such as ambulance services and DME or services under their own fee schedules such as clinical laboratory services would be excluded from the physician fee schedule.

2. Limited Licensed Practitioner Services

Optometrists, dentists, oral and maxillofacial surgeons, podiatrists, and chiropractors are considered to be physicians by Medicare according to section 1861(r) of the Act if they furnish services specified in section 1861(q) of the Act. These types of physicians are often called "limited licensed practitioners".

Because they are defined as physicians by section 1861(r) for a limited range of services, and because the fee schedule under section 1848 of the Act would apply to "physicians' services," the fee schedule would apply to them if they furnish specific services

for which the law considers them to be physicians.

3. Services of Nonphysician Practitioners

There are seven categories of nonphysician practitioners for whom there is separate coverage and payment under Medicare. (See section IV. A. 5. for a discussion of services furnished incident to a physician's service.) A nonphysician practitioner includes the following:

- Physical/occupational therapist (PT/OT).
- Physician assistant (PA).
- Nurse practitioner (NP) or clinical nurse specialist (CNS).
- Certified registered nurse anesthetist (CRNA).
- Nurse midwife (NM).
- Clinical psychologist (CP).
- Clinical social worker (CSW).

Medicare coverage and payment rules vary for each of these practitioners. They all have some payment made on the same basis as physician payments or are limited by physician payments and would, therefore, be affected by the physician fee schedule in 1992.

The coding of the services of nonphysician practitioners for which there is separate coverage and payment under Medicare is currently not uniform. Some carriers instruct nonphysician practitioners to use alpha-numeric HCFA Common Procedure Coding System (HCPCS) codes for the services for which they may bill and other carriers instruct nonphysician practitioners to use codes from the Current Procedural Terminology, 4th Edition (copyrighted by the American Medical Association (1991)) (CPT) for the services they furnish. The CPT is a listing of descriptive terms and numeric identifying codes and modifiers for reporting medical services and procedures performed by physicians. The HCPCS includes CPT descriptive terms and numeric identifying codes and modifiers for reporting medical services and procedures and other materials contained in the CPT, which are copyrighted by the AMA. As part of the standardization of carrier payment practices, we plan to instruct all carriers to have nonphysician practitioners use CPT codes to bill their services if there is an applicable CPT code for the service. We intend to delete the alpha-numeric HCPCS codes that duplicate CPT codes. We would continue to maintain alpha-numeric codes for those services not included in the CPT. Although we show RVUs for the physical therapy codes for physical therapy modalities and treatments that are contained in the CPT (97010 through

97145), we are considering basing payment upon the alpha-numeric HCPCS codes for physical therapy visits (M0005 through M0008), which bundle the payment for the treatments and modalities into payment for the physical therapy visit. We request comment upon these alternative approaches to payment for physical therapy services.

Carriers would determine the payment amount for the nonphysician practitioner's service as described below, based on the type of nonphysician practitioner and the amount contained in the physician fee schedule for the service as represented by the CPT code. For purposes of data collection, we intend to develop standard nonphysician practitioner specialty designations to be used by all nonphysician practitioners billing independently using either CPT or HCPCS codes.

When a nonphysician practitioner furnishes a service that is covered as "incident to a physician's service", the service will generally be billed and paid as though a physician furnished it. This will be true, for example, for the services of NPs, PAs, and registered nurses. However, for other services, such as physical therapy furnished incident to a physician's service, payment for the physical therapy will be at the same level as if furnished by an independently practicing PT. Further discussion of these services follows with discussion of payment for all items and services that are covered as "incident to a physician's service."

Section 6102(e)(7) of Public Law 101-239 requires the PPRC to conduct a study of the effects of the physician fee schedule on nonphysician practitioners. The results of the study, which addressed payment levels for these services, were summarized in the PPRC's 1991 Report to Congress.

a. Physical/occupational therapists (PT/OTs). Section 1848(j) of the Act defines "physicians' services for payment under the physician fee schedule" as including outpatient physical and occupational therapy services covered under section 1861(s)(2)(D). Section 1848(a)(1) states that the fee schedule applies only to physicians' services otherwise paid on a reasonable charge basis.

Outpatient physical therapy, occupational therapy, and speech pathology are covered when furnished by a provider of services (for example, a hospital, skilled nursing facility (SNF), HHA, a clinic, a rehabilitation agency, or a public health agency). These services are paid on a cost basis according to sections 1832(a)(2)(C) and 1833(a)(2)(B) of the Act and would not

be affected by the physician fee schedule.

In addition, the services of PTs and OTs (but not speech pathologists) in independent practice are also covered by Medicare. Because these services are currently paid on a reasonable charge basis (according to section 1833(a)(2)(C) of the Act), they would be included under the physician fee schedule. We intend to provide relative values for these services and they would be paid like all other physicians' services under the fee schedule. There would be no difference in payment amounts for these services whether performed by physicians, by their employees, or by PTs or OTs in independent practice. However, the annual coverage limitation of \$750, as mandated by section 1833(g) of the Act, would continue to apply to the services of independently practicing PTs and OTs.

b. Physician assistants (PAs). Section 1861(s)(2)(K)(i) of the Act provides for coverage of the services of PAs who are legally authorized to furnish these services in their State, under the supervision of a physician if the services are (1) furnished in a hospital, SNF, or nursing facility (NF), or (2) assistant-at-surgery services, or (3) furnished in a Health Manpower Shortage Area (HMSA). Payments for the services of PAs are presently limited by the amounts paid to physicians for the same service in accordance with section 1842(b)(12)(A) of the Act. For assistant-at-surgery services, prevailing charges of PAs are limited to 65 percent of the amount that would otherwise be recognized if the service was performed by a physician. This limit would be continued under the physician fee schedule.

For services furnished in a hospital, other than assistant-at-surgery services, PA prevailing charges are presently limited to 75 percent of nonspecialty physician prevailing charges. Section 6102(f)(4) of Pub. L. 101-239 changes this limit to 75 percent of the fee schedule amount effective January 1, 1992.

For all other covered services, PA prevailing charges are presently limited to 85 percent of nonspecialty physician prevailing charges. Section 6102(f)(4) of Public Law 101-239 changes this limit to 85 percent of the fee schedule amount effective January 1, 1992.

Even after implementation of the fee schedule on January 1, 1992, we would need to continue to compute customary and prevailing charges for services by PAs and NPs (as described below). This is because section 6102(f)(4) of Public Law 101-239 only limits PA and NP payment amounts by the specified

percentages of the physician fee schedule, but does not replace the current reasonable charge system for these services. Thus, payments for PA and NP services would be the lower of the actual charge, the customary charge submitted by the PA or NP, the area prevailing charge for the PA or NP, the inflation-indexed charge (IIC), or the specified percentage of the physician fee schedule (except for services of NPs in rural areas newly covered under section 1861(s)(2)(K)(iii) of the Act as added by section 4155 of Public Law 101-508; see section IV. A. 3. c. for details).

c. Nurse practitioners (NPs) and clinical nurse specialists (CNSs). The services of NPs are covered under two provisions of the law. First, in accordance with sections 1861(s)(2)(K)(ii) and 1842(b)(12)(A) and (B) as amended by section 6114 of Public Law 101-239, services of NPs are covered if furnished in SNFs and nursing facilities (NFs) and are subject to the same payment limitations as PAs. Therefore, NP prevailing charges for these services are presently limited to 85 percent of nonspecialty physician prevailing charges and would be limited by 85 percent of the fee schedule amount effective January 1, 1992.

Second, in accordance with section 1861(s)(2)(K)(iii) of the Act, as added by section 4155 of Public Law 101-508, the services of NPs and CNSs are covered in all settings effective January 1, 1991 if furnished in rural areas as defined under section 1886(d)(2)(D) for the hospital prospective payment system. Under sections 1833(a)(1)(M) and 1833(r) (as added by section 4155 of Public Law 101-508), allowed amounts must be limited to the lower of the actual charge or 75 percent of the physician prevailing charge (75 percent of the physician fee schedule amount for services furnished beginning January 1, 1992) for services furnished in a hospital (including assistant-at-surgery services), and 85 percent of the physician prevailing charge (85 percent of the fee schedule amount for services furnished beginning January 1, 1992) for all other services. (Services of NPs and CNSs furnished in these rural areas under the rural health clinic benefit provided for in section 1832(a)(2)(D) of the Act continue to be paid on a reasonable cost basis under section 1833(a)(3) of the Act).

d. Certified registered nurse anesthetists (CRNAs). With the exception of certain rural hospitals, payments for the services of CRNAs are made under the CRNA fee schedule in accordance with section 1833(a)(1)(H) of the Act. The initial CRNA fee schedule legislation allowed us to develop an

appropriate methodology for paying CRNA services so that aggregate payments for the services of CRNAs under the fee schedule would remain budget neutral with respect to pre-fee schedule payments. Under the initial fee schedule, we developed State-specific CFs for both medically directed and nonmedically directed CRNAs. The initial fee schedule was effective for CRNA services furnished after December 31, 1988.

Under the CRNA fee schedule, payment for CRNA services is determined by multiplying the appropriate CRNA CF by the sum of allowable base and time units. The base units are the same as those used to determine payment for physician anesthesia services. The time units are calculated in 15 minute units with a partial time unit for fractions of 15 minutes.

We designed the CRNA fee schedule so that it is very similar to the payment system for physician anesthesia services. Since we are proposing to eliminate time as a separate payment element for physician anesthesia services, we are proposing the same policy for CRNA services furnished beginning January 1, 1992.

Section 4160 of Public Law 101-508 specified the CFs for the CRNA fee schedule for CRNA services furnished after December 31, 1990. For nonmedically directed CRNAs, the CFs were set at \$15.50 in 1991, \$15.75 in 1992, \$16 in 1993, \$16.25 in 1994, \$16.50 in 1995, and \$16.75 in 1996. For medically directed CRNAs, the CFs were set at \$10.50 in 1991, \$10.75 in 1992, \$11 in 1993, \$11.25 in 1994, \$11.50 in 1995, and \$11.75 in 1996. For years after 1996, these CFs are increased by whatever update factor is applied to physician anesthesia services. The statute also specified in section 1833(1)(4)(D) of the Act that CFs for CRNAs may not exceed CFs for physician anesthesia services in the locality.

We currently use the same relative value guide for payment of CRNAs and anesthesiologists. We would prefer to continue to use the same relative value scale for anesthesia services furnished by anesthesiologists and CRNAs. We believe that it would be simpler for physicians, CRNAs, hospitals, and carriers.

It is our understanding that the CRNA CFs were established by the Congress based on an estimate of anesthesiologist CFs under the fee schedule using data from Phase I of the Harvard study. Further, there is an indication that Congress intended that the non-medically directed rate be

approximately equal to the national average anesthesiologist rate and that the medically directed CRNA CF be approximately 70 percent of the non-medically directed CRNA CF. (See Joint Committee Report—House Committee on Ways and Means, House Committee on Energy and Commerce, Senate Committee on Finance; 101st Cong., 2nd Sess., p. 11 (1990)).

Based on our current estimates of payments to anesthesiologists under the fee schedule, payments for non-medically directed CRNA services would be higher than physician anesthesia rates unless an adjustment is made. On average, the non-medically directed CRNA CFs would yield a payment level of about 30 percent higher than the amount we would pay to anesthesiologists who personally perform the procedure. This is inconsistent with the law. While the statutory language specifies that the CRNA CF may not exceed the CF for physician anesthesia services, it is clear that what is intended is that the CRNA payment level not exceed what is paid to anesthesiologists. This point is critical since the relative value scale and CF for physician services can be scaled to any particular number. Moreover, if we limit payments only to non-medically directed CRNAs, because only these payments exceed payment to anesthesiologists, we cannot preserve the relationship now reflected in section 4160 between medically directed and non-medically directed CRNA CFs and anesthesiologist rates.

There are three objectives that we would like to satisfy in determining relative values for physician anesthesia services and applying the necessary adjustments to payment amounts for CRNA services. First, we would prefer to keep the same relative values for both physician anesthesia services and CRNA services. Second, we would want to assure that payments to a non-medically directed CRNA are limited to the fee schedule amount for personally performed physician anesthesia services in the locality. To accomplish this, we could apply an adjustment to the payment amount for non-medically directed CRNAs to assure that payments using the CRNA statutory CFs and the scale under the physician fee schedule do not exceed what we would pay for a personally performed physician anesthesia service. Finally, we would note that under our current estimates, payments for medically directed CRNA services would be 95 to 100 percent of the payment level for physician anesthesia services. If the adjustment were made only to the payment amount

for non-medically directed CRNAs, the relationship between medically directed and non-medically directed CRNA services intended by the Congress would be lost. We are continuing to explore how we can maintain that relationship.

We invite public comment on the issues of using the same relative value scale for CRNAs as for physicians and applying an adjustment factor to the payment amount for non-medically directed CRNA services to assure that payments are not in excess of the payment for physician anesthesia services. Finally, we invite comments on the issue of how we could maintain the relationship between medically directed and non-medically directed CRNA payments.

e. Nurse midwives (NMs). Payments for the services of NMs are presently made under a special fee schedule in accordance with section 1833(a)(1)(K) of the Act. The allowed amounts under the NM fee schedule, set forth in section 5257 of the Medicare Carriers Manual, are the lower of the actual charge or 65 percent of the prevailing charges of obstetrician-gynecologists or, if no specialties are recognized, 65 percent of the nonspecialists' prevailing charges. Section 6102(f)(7) of Public Law 101-239 changes this limit to 65 percent of the physician fee schedule amount effective January 1, 1992.

f. Clinical psychologists (CPs). There are two types of services that can be independently billed by CPs: (1) Therapeutic services and (2) diagnostic tests. Allowed amounts for the therapeutic services of CPs are presently limited to the lower of the actual charge or 80 percent of the prevailing charges of psychiatrists. A CP is a psychologist who meets the requirements now in manual instructions promulgated by the Secretary to implement section 6113(a) of Public Law 101-239 (which eliminates a restriction on psychologists' services to services furnished at community mental health centers). We are developing a separate rule for paying for the therapeutic services of clinical psychologists. Diagnostic tests furnished by psychologists—whether certified CPs or otherwise—have been covered and paid for under the diagnostic test provision of section 1861(s)(3) of the Act, even before the qualified psychologist benefit provision was enacted. Diagnostic tests furnished by independent psychologists who are not CPs are paid under the reasonable charge system; diagnostic tests furnished by CPs are paid a fee schedule amount equal to 90 percent of the locality prevailing charge for

psychologists who enlisted before the CP benefit was enacted. (The 90 percent reflects the fact that the average allowance is about 90 percent of prevailing charges.) Section 1848(j)(3) of the Act defines "physicians' services" covered under the physician fee schedule as including diagnostic services (other than clinical diagnostic laboratory tests) described in section 1861(s)(3). It is our intention that diagnostic tests furnished by CPs would be paid under the physician fee schedule like all other fee schedule services beginning on January 1, 1992. Psychological diagnostic testing furnished by psychologists who are not CPs would be covered under the fee schedule if the testing is furnished incident to a physician's service. The payment amount for a diagnostic service would be the same whether the service was done by a psychologist or a physician.

g. Clinical social workers (CSWs). In accordance with section 1833(a)(1)(F) of the Act, allowed amounts for the services of CSWs are the lower of the actual charge or 75 percent of the allowed amounts for CPs. The same distinction between therapeutic and diagnostic services that applies to CPs also applies to CSWs. The allowed amounts for CSW therapeutic services would therefore be limited to 75 percent of the CP fee schedule amount. Any diagnostic services furnished by CSWs would be paid like all other services under the physician fee schedule.

4. Services of physicians to patients in provider settings and services of teaching physicians

Services of physicians to patients in provider settings (for example, hospitals, SNFs, or CORFs) are subject to a number of special requirements. These requirements, which are presently contained in §§ 405.550 through 405.556, distinguish between: (1) Services that benefit an individual patient and are generally payable by the carrier on a reasonable charge basis; and (2) services that are considered related to general patient care by the provider and are payable by the intermediary through the prospective payment system or on a reasonable cost basis.

Converting from the current payment system to the fee schedule will affect the amount of payment to physicians who furnish services in provider settings, including teaching physicians. However, it will not change the requirements that must be met for the services of provider-based physicians (PBPs) to qualify for payment as physicians' services under part B. That is, payment for physicians' services to patients in a provider setting

would be payable under the fee schedule only if, as under the present system, the services are personally furnished for an individual patient by a physician; the services contribute directly to the diagnosis or treatment of an individual patient; and the services ordinarily require the services of a physician (§ 405.550(b)). Additional specific requirements apply for anesthesiology, radiology, and physician laboratory services (§§ 405.552, 405.554, 405.556, and 405.557). While physicians' services to individual patients in provider settings are generally paid on a reasonable charge basis, there are currently two methods for determining payments for physicians who are compensated by non-teaching providers for their direct patient care services. Under one method, the carrier bases the customary charges on the amount of compensation the physician receives for the direct patient care services. These are referred to as compensation-related charges, and the methodology for their construction is set forth in § 405.551.

The second method presently available under § 405.551(d)(3) is the per diem or per visit method. Under this method, payment for these physician services may be made directly to the provider on the basis of a single per diem, per visit, or other time-related rate, if the provider, or the particular department in which the services are furnished, has a uniform all-inclusive rate for services to patients. This method is not widely used and is mainly used by government hospitals.

For teaching physicians (that is, physicians who involve interns and residents in the care of their patients), there are special requirements for determining whether their services are covered as "attending physician" services and for determining customary charges. Under the fee schedule, the payment level for teaching ("attending") physicians would be the same as for all other physicians since customary charges are no longer applicable.

In addition, section 1861(b)(7) of the Act and implementing regulations (§§ 405.465 and 405.521(d)) currently allow a hospital to be paid on a cost basis for the direct medical and surgical services of teaching physicians if certain conditions are met. While Public Law 101-239 did not specifically repeal this cost election provision, continuation of the cost election option would appear inconsistent with the overall purpose of the physician fee schedule. However, if no change in this law is enacted before implementation of the fee schedule in 1992, this cost election would continue

to be available to certain qualified teaching hospitals.

Section 1848 of the Act requires that all physicians' services currently payable on a reasonable charge basis be paid under the fee schedule beginning January 1, 1992. Therefore, the direct patient care services of PBPs—including those in teaching hospitals with the exception of those under the cost election provision—would be paid for under the fee schedule on the same basis as other physicians. There no longer would be any need for computation of compensation-related customary charges or per diem or per visit charges since reasonable charges no longer would be the basis for payment of physicians' services once the fee schedule becomes effective. Section 1848, rather than the reasonable charge rules established to pay for the services of hospital-based and teaching physicians, controls payment for these services, particularly anesthesiology, radiology, and physician laboratory services. As noted above, however, we are retaining the policies for distinguishing physician services furnished to individual provider patients, which would be paid under the fee schedule, from services furnished under the prospective payment system or reasonable cost payment. We have, therefore, revised §§ 405.550 through 405.552, 405.554, and 405.556 and transferred them to subpart F. We have removed obsolete §§ 405.553, 405.555, and 405.557.

We are retaining the requirements in the regulations and operating instructions for determining when a teaching physician is considered an attending physician and can bill for services performed by an intern or resident under his or her direction. (For a more detailed explanation of the attending physician criteria, see § 405.521(b) and Intermediary Letter 372.) These attending physician criteria for teaching physicians would remain in effect under the fee schedule. (That is, the fee schedule would change the amount that Medicare pays, but not the services for which it pays.)

On February 7, 1989, we published a proposed rule (54 FR 5946) setting forth changes in the requirements for determining when a teaching physician can bill for services involving the supervision of interns and residents and changes in the policies for determining the customary charge of a teaching physician. The payment aspects for this rule would largely be irrelevant since customary charges would no longer be applicable under the fee schedule. We have, therefore, modified §§ 405.521,

405.522, and 405.580 to reflect the change to the fee schedule. Those portions of the regulations for determining when a teaching physician's services are covered (that is, when the attending physician requirement is met) would be retained. With respect to the proposed changes in the attending physician criteria that were the subject of the aforementioned proposed rule, we plan to finalize this rule in the future.

5. Payment for supplies, services, and drugs furnished incident to a physician's service.

a. Supplies. Section 415.32 sets forth the policies we are considering to address payment for services and supplies incident to a physician's service. This proposed policy on payment for supplies is consistent with our preferred approach to a site of service differential explained later in section VI. A. Specifically, in § 415.32(a), we propose that, except for drugs and certain supplies, office medical supplies are considered to be part of a physician's practice expense and payment for them is included in the practice expense portion of the payment to the physician for the medical or surgical service to which they are incidental. Because some carriers have made separate payment for some of these supplies under the current customary, prevailing, and reasonable charge system, in developing the fee schedule, we are considering allocating dollars currently paid for these supplies across all practice expense RVUs for office-based procedures.

In § 415.32(a), for certain facility-based services performed in office settings, we propose to establish a separate fee schedule allowance for the following medical supplies if they are used:

- Lumbar puncture trays.
- Venous access catheters.
- Thoracentesis trays.
- Cystoscopy trays.
- Surgical trays.
- Catheter insertion trays.
- Bone marrow aspiration trays.

These are relatively expensive, disposable supplies that are dedicated to the use of a single beneficiary and are essential to the performance of procedures that can usually be safely and effectively performed in a physician's office. The following list provides examples of services for which we might allow a separate fee schedule payment when the procedure is performed in a physician's office:

CPT-4 code*	Procedure
12020	Treatment of superficial wound dehiscence; simple closure.
32000	Thoracentesis, puncture of pleural cavity for aspiration, initial or subsequent.
36495	Insertion of implantable intravenous infusion pump or venous access port.
62270	Spinal puncture, lumbar, diagnostic.
85095	Bone marrow smear and/or cell block; aspiration only.

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We considered several options for making payment for these expensive supplies under section 1848(c)(4) of the Act, which gives us authority to establish ancillary policies:

Option 1—Bundle these supplies into the payment for the relevant services.

However, we are concerned that we could not properly identify all of the procedures for which some of these supplies could properly be used (for example, surgical trays).

Option 2—Exclude these supplies from the fee schedule and leave it to each carrier to pay for these items on a reasonable charge basis.

Option 3—Permit separate billing for these supplies, but pay a national fee schedule add-on for these supplies.

We are considering adopting Option 3. We considered and rejected the idea of adjusting the fee schedule amount for these office medical supplies by the GPCI. Since we have no reason to believe that the prices for the items vary substantially by geographic area, we would base the fee schedule on the estimated national average allowed charge for the item. We believe that making payment for disposable supplies used for ASC, inpatient hospital, and outpatient based procedures performed in the office setting may add an incentive to move these procedures to the office setting, when medically appropriate.

Part B Medicare Annual Data (BMAD) files do not contain the detailed data needed to establish separate allowances for our proposed list of supplies. There are only 3 HCPCS codes under which these types of supplies are currently coded: A4550—"surgical tray", A4300—"implantable vascular access portal catheters" and 99070—"supplies and materials (except spectacles), provided by the physician over and above those usually included in the office visit or other services rendered."

Therefore, we sent a survey questionnaire to all carriers to collect data on their current allowances for the items included in our list. From those carriers stating that they have a policy to pay separately for supplies, we

propose to determine national average allowed charges for these supplies. We are also in the process of obtaining catalogs from national surgical supply companies to review information on list prices for the supplies for which we are considering allowing a separate payment. Based on our analysis of these data performed thus far, we expect to establish a fee schedule payment amount for selected supplies used for a facility-based procedure when it is performed in the physician's office. We are also considering limiting this proposed policy to only ASC procedures or to some other subset of procedures. We will continue to study this issue, and invite comments on the proposed policy.

We are especially interested in receiving comments on the issues of (1) our method of establishing fee schedule amounts for these office medical supplies, (2) the content of the list of office medical supplies for which we propose to provide separate payment, and (3) whether payment for such supplies, if made, should be limited to procedures on the ASC list or some other subset of procedures. Commenters who want additional office medical supplies to be placed on this list should provide a specific rationale for why the supply should not be considered to be routine practice expense and should provide supporting information on the cost of the office medical supply to physicians. Reference to items such as "trays" or "packs" should itemize the specific contents.

b. Services furnished incident to a physician's service. We propose in § 415.32(b) that services of nonphysicians that are covered as incident to a physician's service would be paid under the fee schedule as if the physician had furnished the service. This is a continuation of current practice under reasonable charge payment in which the physician bills reasonable charges for the services of staff that are incident to the care as if the physician had furnished the services personally. These services and items typically include the services of health professionals such as nurses or PAs who furnish a service under the direct supervision of a physician, for which the physician bills. For example, a registered nurse under the supervision of a physician may see a patient on the physician's behalf to administer an injection. The physician would bill for the injection as if the physician had administered it. Several CPT codes (for example, minimal established office visits and physical medicine codes) acknowledge these arrangements.

We request public comment on whether the policy of paying the same amount for the service whether furnished personally by a physician or by someone incident to a physician's service should continue. The salary of the nonphysician staff is a practice expense and the physician work in these services is arguably non-existent or at least something less than if the physician furnished the service directly. Because physicians bill for these services as if they furnished them personally, we do not know to what extent these services furnished by physician staff without a patient encounter are billed and paid as physician services. We are considering whether to require use of a modifier when these services are furnished by physician staff so that we can evaluate both their frequency and the amount of payments made for them.

c. Drugs. The program currently pays for drugs furnished in physician's offices that are not self-administerable under the "incident to" provision set forth in section 1861(s)(2) of the Act. For the most part, drugs paid for under the "incident to" benefit consist of drugs furnished by injection or by infusion. This includes chemotherapy agents. Generally, carriers base payment for the drug on the physician's estimated cost of the drug using one of the wholesale price guides such as the Red Book. However, some carriers base payment on actual acquisition costs determined on the basis of carrier surveys.

We considered the following options for paying for drugs under the fee schedule:

- Option 1—Establish a fee schedule payment amount for each drug.
- Option 2—Bundle the payment for the drug into payment for the visit or consultation service.
- Option 3—Make a separate payment for a drug and leave the pricing of the drug to each carrier.
- Option 4—Make a separate payment for a drug but require a consistent method in pricing to be used by the carriers.

We believe that ultimately there should be a national fee schedule allowance for all "incident to" drugs. However, given the large number of different drugs and the myriad of dosage levels, we have decided that it is not practical for us to consider establishing a national drug fee schedule at this time. However, we will consider this issue in the future. Section 1848(j)(3) of the Act gives us the authority to specify that items and services be excluded from the fee schedule. Thus, we have decided to exclude the cost of drugs from the national fee schedule and to continue to

pay for them under the current "reasonable charge" system. We believe, however, that there is a need for greater consistency in how drugs are paid for under the program and for this reason we have chosen Option 4. For purposes of payment for drugs furnished incident to a physician's service, the term "drug" includes those covered drugs and biologicals that cannot be self-administered. Also, we are proposing that we will instruct all carriers to base payment for drugs on 85 percent of the national average wholesale price of the drug (as published in the Red Book and similar price listings), but we welcome comments regarding the appropriate discount.

Medicare policy, since the beginning of the Medicare program, has been to base payment for "incident to" drugs on the estimated acquisition costs. However, based on studies by the Office of the Inspector General (OIG) ("Changes to the Medicaid Prescription Drug Program Could Save Millions" (ACN 06-40216) and "Use of Average Wholesale Prices in Reimbursing Pharmacies in Medicaid and the Medicare Prescription Drug Program" (A-06-89-00037)) and other information, we believe that the Red Book and other wholesale price guides substantially overstate the true cost of drugs. The OIG reports indicate that pharmacies are getting an average discount of 15.9 percent off the published wholesale price. We have no reason to believe prices paid by physicians are any higher than pharmacies pay. Moreover, we are proposing for very high volume drugs that payment for the drug would be limited to the lower of the estimated acquisition cost for the drug as determined by us and specified in instructions to carriers or 85 percent of the national average wholesale price for the drug. The listing of the high volume drugs and payment limits for them will be included in the Medicare Carriers Manual.

We propose this payment policy for drugs that are incident to physician services under the authority of section 1842(b)(8) of the Act, which permits us to establish limits on charges based on inherent reasonableness. This provision of the law is implemented in regulations at § 405.502(g). The regulations permit us to establish a limit on the reasonable charge for an item or service if we determine that charge is grossly lower than or in excess of acquisition or production costs for the item or service (§ 405.502(g)(1)(vi)).

As indicated in our previous discussion, we base the payment

limitation for drugs on the findings of the OIG with regard to the discounting of drugs to pharmacies below the average wholesale price. We believe that physicians also have the opportunity to achieve these discounts from drug manufacturers and wholesalers, since drug sales are dependent upon the drugs a physician prescribes for his or her patients, not only for administration in the physician's office, but also for self-administration or administration in a hospital or other institution. Therefore, we believe that physicians are in an excellent position to demand discounts such as those that the OIG study finds are typically given to pharmacies.

We believe that the impact of this special charge on physician services will be minimal because the drugs to which this provision applies are incidental to the physician's professional services and, to be covered, the law requires that they be "of kinds which are commonly furnished in physicians' offices and are commonly either rendered without charge or included in the physicians' bills." (section 1861(s)(2)(A) of the Act). Since the physician has great leverage with the entity from which he or she purchases drugs to acquire a significant discount for the drug, we do not anticipate that there will be an adverse effect upon quality, access, beneficiary liability, assignment rates, reasonable charge reductions on unassigned claims, and participation rates of physicians.

Currently, the program usually pays a separate charge for an injection by a physician or by other health personnel incident to a physician's service (see the Medicare Carriers Manual, section 5202). If the customary practice in the area is not to charge for the injection furnished in the course of a visit, no payment is currently made for the injection. If the purpose of a visit is only to receive an injection, payment for the injection is made and payment for the visit is not allowed. If special skills are needed for the injection, payment is made based on the reasonable charge practices in the area (the Medicare Carriers Manual, section 5202.2). We propose to change this current policy with implementation of the fee schedule. In general, when a physician provides a visit or other service to a beneficiary and, in the course of that encounter, the beneficiary also receives a subcutaneous, intramuscular, intravenous, or intra-arterial injection, no additional payment would be made for the administration of the injection. The drug would be paid separately as discussed above. Payment for both the

cost of non-drug supplies and administration of the drug would be included in the payment for the visit or other service. Generally, if a beneficiary receives an injection, we expect that the physician would bill for a minimal office visit. We believe it is rare when a beneficiary who needs an injection does not also need at least a minimal level of involvement of a physician as part of the service.

In those unusual circumstances in which no evaluation and management service or other service is furnished to the beneficiary and the physician bills only for the injection (for example, a routine B12 injection for pernicious anemia), payment for the injection would be based on the RVUs for the applicable injection code.

This general policy would also apply to subcutaneous, intramuscular, intravenous, and intra-arterial injections for purposes of cancer chemotherapy. However, infusion of cancer chemotherapy drugs (CPT 96410, 96412, 96414, 96422, 96423, 96425) and administration of cancer chemotherapeutic agents into specialized body cavities (CPT 96440, 96445, 96450) are considered to be procedures, not injections, for purposes of this policy. Therefore, we propose to pay separately for chemotherapy infusions and chemotherapy administration into specialized body cavities regardless of whether these services occur during a visit, infusion of another drug, or while another service is furnished. We would also pay separately for drugs and chemotherapy agents as discussed in this section.

Of course, when cancer chemotherapy is administered to a hospital patient by personnel other than those practitioners authorized to bill separately under Part B for their professional services (that is, a physician, PA, NM, CRNA, or CP), the chemotherapy administration is a hospital service and cannot be billed by a practitioner. Chemotherapy administration can be billed by a physician only when it is furnished by the physician or staff outside a hospital setting. Chemotherapy furnished by the physician's staff may be paid by Medicare only when the requirements for coverage as "incident to a physician's service" contained in Medicare Carriers Manual, section 2050 are met. The proposed regulations for the payment of drugs beginning January 1, 1992 appear in new § 415.34.

B. Formula for Computing Payment Amounts

Section 1848(a) of the Act specifies that payment for Medicare physicians' services must be based on the lesser of

the actual charge or the payment amount computed under the fee schedule. Although the law refers to the fee schedule values as "payment amounts," in fact under the statutory formula the amount paid to a physician (often referred to as the "allowed charge") would be 80 percent of the actual charge or 80 percent of the fee schedule payment amount, whichever was less. The beneficiary is required to pay the remaining 20 percent. Throughout the preamble of this proposed rule and in the proposed regulation itself, we have used the terms "fee schedule payment amount," "payment amount," and "payment" as used in the statute to include the amounts for which both the beneficiary and Medicare are responsible.

Under the formula set forth in section 1848(b)(1) of the Act, payment amounts for particular services under the physician fee schedule would be computed as the product of three factors: (1) A relative value for the service, (2) the GAF for the fee schedule area, and (3) a nationally uniform dollar CF. (Although we generally describe a single nationally uniform CF, different CFs for surgical services and other services may be established as part of the Medicare volume performance standards (MVPS) and annual update process. (See section IV.E.4. for further explanation.) This general formula can be expressed as:

$$\text{Payments} = \text{RVU}_t \times \text{GAF}_a \times \text{CF}$$

where

RVU_t = Total relative value units for the service

GAF_a = Total geographic adjustment factor for the fee schedule area

CF = Uniform national conversion factor

_s = Service

_a = Fee schedule area

Section 1848(e)(2) of the Act requires the total GAF for a fee schedule area be the sum of three components, relating to the three components of the total RVU for a service. The three components are: (1) Physician work; (2) practice expenses or overhead such as rent, staff salaries, equipment, and supplies, exclusive of professional malpractice liability insurance costs; and (3) professional liability insurance or malpractice costs.

Section 1848(c)(1) of the Act defines the components of the RVU for a physician service. The physician work RVU must reflect the physician resources required to furnish the service, including time and intensity of effort. Under the formula specified at section 1848(c)(2)(C), the practice expense and malpractice RVUs are based on

historical data for practice expense as a fraction of total physician revenue, weighted by specialty, applied to estimated 1991 average allowed charges under the customary, prevailing, and reasonable charge methodology.

Separate GPCIs have been developed for the three components of the fee schedule. Under section 1848(e) of the Act, the GAF is equal to a weighted average of these three GPCIs. Thus, when the GAF is expressed as the sum of its three components, the formula becomes:

$$\text{Payments} = \text{RVU}_w \times [(\text{GPCI}_w \times w_s\%) + (\text{GPCI}_{pe} \times pe_s\%) + (\text{GPCI}_m \times m_s\%)] \times \text{CF}$$

where

GPCI_w = GPCI value reflecting one-fourth of geographic variation in physician work applicable in the fee schedule area

GPCI_{pe} = GPCI value for practice expense applicable in the fee schedule area

GPCI_m = GPCI value for malpractice expense applicable in the fee schedule area

$w_s\%$ = Work percentage for service *s*

$pe_s\%$ = Practice expense percentage for service *s*

$m_s\%$ = Malpractice percentage for service *s*

The work, practice expense, and malpractice percentages are the fraction of the total RVUs for a service represented by the work, practice expense, and malpractice RVUs, respectively; they sum to 100 percent.

In effect, this statutory formula accomplishes separate adjustment of each of the three components of the total RVUs for each service by the value for the fee schedule area of a GPCI specific to that component. (The statute specifies, however, that only one-fourth of the geographic variation in physician work resource costs is to be taken into account in the formula.) The three GPCI-adjusted RVU values are summed to produce a total RVU value, which is converted into a dollar payment amount specific to that service and that fee schedule area by application of a uniform, national CF. Thus, for ease of computation and understanding, we have transformed the original formula stated above into an algebraic equivalent as follows:

$$\text{Payments} = [(\text{RVU}_w \times \text{GPCI}_w) + (\text{RVU}_{pe} \times \text{GPCI}_{pe}) + (\text{RVU}_m \times \text{GPCI}_m)] \times \text{CF}$$

where

RVU_w = Physician work relative value units for the service

RVU_{pe} = Practice expense relative value units for the service

RVU_m = Malpractice relative value units for the service

Sources of each of these elements of the payment formula are explained in more detail in the sections below. Included within the discussion of the CF computation below is an explanation of payment rules during the transition years 1992 through 1995.

C. Sources of Relative Value Units (RVUs)

1. Physician work RVUs

Section 1848(c)(2)(A) of the Act, as added by Public Law 101-239, authorizes the Secretary to establish the relative values for the physician fee schedule after considering recommendations of the PPRC and consulting with organizations representing physicians. The physician work RVUs that form the basis of the fee schedule (see Addendum B) were developed by a research team at Harvard University under a cooperative agreement with us. A complete discussion of the methodology and results of that study to date is contained in the Harvard team's Phase I and II reports. (Hsiao, Braun, and Becker et al., 1988 and 1990 are available through the National Technical Information Service. See Addendum D for ordering information for these and other major reports related to the physician fee schedule.) In addition, the Harvard team presented a summary of the first phase of the study in the Journal of the American Medical Association (Hsiao, Braun, Kelly, Becker, October 1988). A summary of the Phase I results is also provided in the Secretary's October 1989 report to Congress on "Relative Value Scales for Physician Services."

In essence, the Harvard researchers constructed a relative value scale by investigating the physician resource inputs used to produce physicians' services. They devoted most of their effort to quantifying the amount of physician work involved in producing a service. In the first phase of their study, vignettes or descriptions of physicians' services were developed for 372 services performed by one or more of 18 specialties (not limited to Medicare covered services) and assigned to the appropriate CPT. About 200 unique CPT codes were represented. A national random sample of approximately 185 physicians in each of the 18 specialties was selected. About 100 physicians in each specialty evaluated services described by each vignette in terms of requirements of work, time, and intensity, which consists of technical

skill and physical effort, mental effort, and stress due to risk.

A process of magnitude estimation was used to obtain measurements of intra-service work (that is, work for the procedure excluding pre- and post-service time) and its dimensions relative to a reference standard procedure in each specialty. (Magnitude estimation is a technique that rates each dimension in relation to a reference service using a ratio scale.)

The survey data were used to create scales of relative intra-service work for each of the specialties. The specialty scales were linked by identifying same or equivalent services provided by several specialties. This process reduced the number of scales from 18 to 1 while keeping the relationships within the individual specialties essentially unchanged. Finally, estimates of pre- and post-service work (for example, post-surgery hospital visits) were added to yield total work values for each of the surveyed services.

While only 372 unique services, representing about 200 unique CPT codes, were investigated through surveys in Phase I of the study, by extrapolation the Harvard team developed physician work RVUs for about 1400 services. These 1400 RVUs represent about 1200 unique CPT codes (combinations of procedure and modifier codes increased the number of unique services to 1400). Some questions arose about the face validity of the extrapolated values, about the applicability of the values for visits across specialties, and about other issues in Phase I of the study.

The cooperative agreement between us and Harvard was extended into a second phase. The additional specialties investigated in the second phase of this study were: cardiology, emergency medicine, gastroenterology, hematology/oncology, infectious diseases, nephrology, neurology, neurosurgery, nuclear medicine, osteopathy, physical/rehabilitation medicine, plastic surgery, pulmonary medicine, and radiation oncology. As part of Phase II, Harvard also resurveyed general surgery, internal medicine, and orthopedic surgery. Other organizations funded resurveys of dermatology, ophthalmology, pathology, and psychiatry.

In Phase II, the Harvard study team also refined some of its methods to resolve criticisms of the Phase I study, including methods of aligning specialties, estimating pre- and post-service work, and data used for extrapolation.

Phase II of the study also focused on further review and development of

values for visits and for global surgery services, using a broader global fee policy (that is including post-surgery visits within 90 days after surgery). It also investigated the validity of using a small group process to develop RVUs for services that were not surveyed.

With the results of Phase II, we have work values for 460 unique CPT codes from survey data and with extrapolated data, we will have values for over 4000 codes representing a large percent of Medicare dollars. Phase II of the study indicates that a small group process can be used to develop RVUs for remaining services for which we have no work RVUs. Therefore, we have entered into another cooperative agreement with Harvard for a third phase of its study, which will focus primarily on using the small group process tested in Phase II to generate values for the remaining services and to review RVUs for all extrapolated services. Another important function of Phase III was to generate appropriate values for physician visits under the new code definitions recently developed by the CPT Editorial Panel (discussed more fully in the visit coding section).

The values for physician work shown in Addendum B are primarily based on Phase II results, as well as some initial Phase III results. Addendum B contains 4,149 codes with a total of 5,757 RVUs. (There are more RVUs than codes because certain codes have both a professional and a technical component.) This represents about 85 percent of Medicare dollars. We expect Harvard's recommended values for almost all the remaining codes to be provided by June 30, 1991. We expect to use those values in the final rule. With the receipt of values from Phase III of the Harvard study, we expect to be able to determine relative values for physician work for the codes that account for almost all Medicare payment for physician services.

Individuals or organizations that have comments on the RVUs contained in Addendum B should comment in response to the publication of this proposed rule. While we will carefully consider all comments made in response to this proposed rule, comments that are substantiated by the presentation of new objective data or that are substantiated by analysis of pre-existing studies of physician work would be most persuasive.

Some of these RVUs may change as we continue to receive results of Phase III of the Harvard study. Phase III of the Harvard study will create relative work values for CPT codes that were not given values or were given values by extrapolation in the first two phases of

the study. In Phase III, these values will be generated using a small group process. As described above, in Phase II, Harvard experimented with several small group processes to test whether a panel of physicians could replicate values that were generated from the national survey. (Chapter 11 of the final Harvard Phase II report). They found that a well organized structured panel consisting of 11 to 14 physicians in a specialty can produce estimates of work that are quite similar to the survey estimates. Consequently, Harvard has been organizing 26 expert panels and elicit survey information about intra-service work in a manner quite similar to that which was used in the first two phases of the study. These panels will also be used to estimate pre- and post-service work for a number of surgical services and to estimate total work for global surgery packages. Since only a limited amount of preliminary Phase III results are included in this proposed rule, there will be no opportunity for comment on many of the Phase III values before the final rule is published. Therefore, we will consider the relative values included in the final rule to be interim values and we will request public comment on these relative values. We will subsequently publish a Federal Register notice that will respond to the public comments and announce any revisions to the interim relative values.

2. Charge-based relative value scale to provide RVUs for gaps

We could develop a charge-based relative value scale that would be used to fill the remaining gaps for services that are not being studied by Harvard (for example, the values for the single covered chiropractic service and the infrequently covered dental services not listed in the CPT). This approach could also be used to fill in gaps if we do not receive all of the Harvard Phase III values in time for the final rule. We would develop this charge-based relative value scale based upon current average allowed charges. We believe it is reasonable to use charge-based RVUs for these services (which are expected to represent only a very small percent of Medicare payment for physician services), because we currently have no basis for establishing resource-based relative values for these services since they do not belong to any of the procedure "families" studied by Harvard.

We would create the charge-based relative value scale by calculating the practice expense and malpractice expense portions of the average allowed charges for each service according to the statutory formula. We would deduct the

practice expense and malpractice insurance portions from the average allowed charge for the service to derive the current average allowed charge that represents physician work.

For some very low frequency procedures, the charge data will be unreliable. If we have no data for a service from the Harvard study and no reliable charge data, we intend to consult with carrier medical directors and possibly medical specialty societies to establish an interim value.

3. Unlisted procedures and local codes

The CPT contains about 100 codes for "unlisted" services or procedures. These codes are used for services within a family of a service which is not specifically addressed by the existing CPT codes (for example 90699, "Unlisted medical service, general"; 33999, "Unlisted procedure, cardiac surgery"). These codes generally end with the digit "9" and are often used for services that are furnished so rarely that creation of a national code would not be efficient. We do not have relative values from Harvard for these services because Harvard could not develop a resource-based work relative value for a service in which the work is not specified. We propose to permit carriers to individually value services billed under the unlisted procedure codes after review of pertinent medical information that describes the service furnished.

Similarly, we propose that new procedures for which there is no national code would be coded using a local carrier-unique code and would be paid under the fee schedule using "interim" relative values determined by the carrier until there is a national code and value for the service. We have recently completed a project in which we reviewed and eliminated most local codes for physician services because these services were already covered by the CPT or HCPCS codes. We intend to minimize the use of local codes when the fee schedule is implemented by: (1) Requiring that carriers acquire prior approval from HCFA central office for the use of local codes for physician services; (2) annually reviewing all local codes to identify those that should be moved to the national coding system; and (3) establishing national HCPCS codes for new services deemed not appropriate for inclusion in the CPT. (See section V.A.1. on definitions of services that discusses HCPCS codes more fully.)

4. RVUs for limited licensed practitioner services

As previously stated in section IV.A.2., optometrists, dentists, oral and maxillofacial surgeons, podiatrists, and chiropractors are considered to be physicians by Medicare under the conditions specified in section 1861(r) of the Act. These types of physicians are often called "limited licensed practitioners".

Section 1848(c)(6) of the Act prohibits the Secretary from imposing different RVUs or a different CF " * * * for a physician's service based on whether the physician furnishing the service is a specialist or based on the type of specialty of the physician."

For codes that overlap with those of doctors of medicine (MDs) and doctors of osteopathy (DOs), we either have physician work RVUs from Harvard Phases I or II or expect to receive them as part of subsequent work. One of the limited licensed specialties (oral surgery) was surveyed as part of Harvard Phase I. Although limited licensed practitioners perform many of the same services as MDs and DOs and bill using the same codes, some codes are unique to the limited licensed practitioners. Thus a few limited licensed practitioner services that are covered by Medicare are outside the CPT coding system and presently are paid under HCFA-developed alphanumeric HCPCS codes (for example, manipulation of the spine by a chiropractor). Harvard will provide RVUs for services performed by MDs, DOs, and for a few services performed by oral surgeons.

Since we do not expect a relative value from Harvard for the one Medicare-covered service furnished by chiropractors (manipulation of the spine under certain conditions), we propose to develop an RVU for that service based on average allowed charges and other charge data. We considered basing the RVU value on the values Harvard has provided for spinal manipulation that are contained within the CPT, but rejected this option. We did not have sufficient evidence that the CPT service and the chiropractor service are equivalent services requiring the same amount of physician work.

An important question that arises under the physician fee schedule is whether these limited licensed physicians furnish the same services as MDs and DOs when they bill under a procedure code that is also used by MDs and DOs. We propose that "limited licensed" and "fully licensed" physicians would be paid the same under the fee schedule. However, we

request public comment with regard to whether the services of limited licensed practitioners are substantially different from the identically coded services of MDs and DOs. If we were to become convinced that the work for an identically coded service furnished by an MD or DO differs materially from the work for the service furnished by a limited licensed practitioner, we could reflect that difference by either (1) computing the payment for the service by a limited licensed physician as a percentage of the MD's or DO's payment, or (2) we could establish a separate code to more accurately reflect the service furnished by a limited licensed practitioner.

5. Radiology services

a. Integration of existing radiologist fee schedule into physician fee schedule. In establishing the physician fee schedule, the language of Public Law 101-239 acknowledges that special rules are already in effect with respect to payment for radiologist services. Section 4049(a) of Public Law 100-203, as amended in part by section 411 of Public Law 100-360, added a new section 1834(b) to the Act establishing fee schedules for radiologist services for use in making payments for certain radiological procedures furnished beginning January 1, 1989. Under the fee schedules for radiologist services, payment is equal to 80 percent of the lesser of the actual charge for the procedure or the fee schedule amount. The fee schedule amount is determined by multiplying national relative units for a radiology procedure by a locality-based CF. The radiologist fee schedule applies to radiology services (as defined in § 405.530(c)) furnished by or under the supervision of a physician certified or eligible to be certified by the American Board of Radiology or by a physician for whom radiology services account for at least 50 percent of the total amount of charges made under Medicare Part B. (Until January 1, 1992, the radiology services of other physicians continue to be payable under the customary, prevailing, and reasonable charge methodology, although, effective April 1, 1990, payment for over 90 radiology procedures is limited to the radiologist fee schedule amount under the "designated specialty" provision. Imposed by section 1842(b)(15) of the Act, as added by section 6108(b)(1) of Public Law 101-239, this rule is applied in carrier localities in which prevailing charges differ by physician specialty. In addition, section 4102(c) of Public Law 101-508 limits the prevailing charge for all radiology services (except for nuclear medicine services) to the radiologist fee

schedule amount, for services furnished in 1991.)

Radiologist fee schedule values are based on a relative value scale developed by the American College of Radiology (ACR), which conducted both surveys of radiologists and radiological facilities and a consensus panel process for refinement and extrapolation of the survey-generated values. We accepted the ACR's values for all services other than the technical component of interventional radiology procedures such as angiography. We believe the low volume of these procedures furnished in nonhospital settings at the time of the ACR's surveys was an insufficient basis upon which to determine appropriate relative units for the technical components of these procedures. Under the fee schedules for radiologist services, carriers determine local values for global and technical component billing of these procedures (Medicare Carriers Manual, Section 5262.C.1.). (We published an interim final rule with comment period on March 2, 1989 (54 FR 8994) that set forth the relative value scale for and methodology for determining fee schedule payment for part B radiologist services.)

Under the fee schedules for radiologist services, two CFs were computed for nearly every carrier locality. One CF was applied to the services of portable x-ray suppliers, while the other applied to all other services payable under the fee schedules. The CFs thus reflected historic charging patterns of the physicians and suppliers whose services were payable under the fee schedules.

As required by section 1834(b)(4) of the Act, the initial fee schedule CFs were developed to produce the same total payments for radiologist services under the fee schedules in 1989 as would have been the case under the prior payment system. Also, as required by the law, the actual CFs used to make payments in 1989 were reduced by 3 percent. Section 1834(b)(4) also provided that the fee schedules would be updated in future years by the MEL. We interpreted this requirement to mean that the CFs would be updated yearly by the MEL. Thus, the radiologist fee schedules were budget neutral less 3 percent, locality by locality in 1989. Section 6105(a) of Public Law 101-239 amended section 1834(b)(4) of the Act to reduce the CFs in effect as of December 31, 1989 (other than the CFs for the services of portable x-ray suppliers) by 4 percent for services furnished beginning April 1, 1990 and no update was

provided. The 1990 MEI update for the portable x-ray CFs was zero.

Section 4102(a) of Public Law 101-508 amended section 1834(b) of the Act to revise the level of CFs, other than those for the services of portable x-ray suppliers, effective for services furnished beginning January 1, 1991. This revision requires the Secretary to compute a national weighted average CF for 1990 and to reduce that average amount by 13 percent. No 1991 locality CF can be set at less than 60 percent of the national CF before this 13 percent reduction is applied. The locality CF is determined in a two-step process. In the first step, a CF is derived by multiplying the reduced 1990 national CF by the ratio of the locality's 1990 CF to produce a locally adjusted amount. In the second step, a CF is derived by multiplying the national weighted average CF by the locality's GPCI for the professional and technical components. One-half of the professional and technical component GPCI-adjusted amounts are separately added to one-half of the locally-adjusted amounts to produce a professional component and a technical CF for each locality. In some localities, this results in different CFs for professional and technical components. However, in most localities, they are the same. No 1990 CF was reduced by more than 9.5 percent in setting the 1991 CFs. We computed the revised 1991 CFs and distributed them to the carriers.

Section 4102 of Public Law 101-508 made additional changes affecting payments for radiology services. Section 4102(b) provided for modified transition rules for radiology services (both those currently paid under the radiologist fee schedule and those paid under the reasonable charge rules) for 1992. Under these rules, more radiology services would be paid under a transitional formula and fewer would be paid immediately under the physician fee schedule than would have been the case without these modifications. Further details are provided in the discussion of the transition.

Section 4102(c) of Public Law 101-508 placed a cap on prevailing charges for radiology services payable on a reasonable charge basis in 1991 at the level of the radiologist fee schedule amount payable in the locality for a procedure. Nuclear medicine procedures were excluded from this limitation. Section 4102(d) reduced the amounts payable for the technical components of magnetic resonance imaging procedures and computerized axial tomography procedures effective for services furnished after December 31, 1990. In the case of global billing, this reduction

would apply only to the portion of the procedure represented by the technical component.

b. Rescaling values for the physician fee schedule. In establishing the overall physician fee schedule, section 1848(b)(2)(A) of the Act (as added by section 6102 of Public Law 101-239) specifies for radiology services that "the Secretary shall base the relative values on the * * * (existing radiologist fee schedule), with appropriate modifications of the relative values to assure that the relative values established for radiology services which are similar or related to other physicians' services are consistent with the relative values established for those similar or related services." This language indicates that while the relationships among the radiology service RVUs established in the existing fee schedule are to be preserved, the radiologist fee schedule must be rescaled to link radiology services to equivalent nonradiology physician services in the overall physician fee schedule, which is based primarily on the Harvard study physician work relative values.

In order to do this rescaling, we must determine which value from the existing radiologist fee schedule is equivalent to the Harvard physician work RVU for a given service. This determination is complicated by the fact that radiology services have professional and technical components and may also be billed globally. Briefly, the "professional component" of a service is the professional service furnished by the physician (for example, reading a chest x-ray), while the "technical component" includes the specialized supplies, equipment, and staff that are necessary to do the service (for example, the creation of the film to be read). The professional component service, similar to other physician services, includes work, practice expense, and malpractice components. The technical component service does not involve a professional physician service and includes practice expense and malpractice components only. We discuss the methodology for dividing the current radiologist fee schedule RVUs into work, practice expense, and malpractice components and the process for rescaling the practice expense and malpractice portions in section VI. B. of this preamble. The following simple example illustrates our proposed rescaling methodology.

PHYSICIAN WORK RVU

Code	Existing Fee Schedule	Harvard Study	Ratio of RVUs for Harvard Study to Existing Fee Schedule
a	2	1	.50
b	5	2	.40
c	9	3	.33
Mean			.41

We would convert RVUs for the existing fee schedule to the Harvard scale as follows:

(1) Standardize each current RVU by dividing the existing radiologist fee schedule scale by the Harvard RVU. (In the model fee schedule notice, we discussed weighting the RVUs by frequency. However, we believe using a weight of 1 for each surveyed procedure is an appropriate way of rescaling the radiology relative value scale to the Harvard value.)

(2) Place all values on the Harvard scale by multiplying by the mean ratio value of .41

Code	RVU
a	0.82
b	2.05
c	3.69

For the final rule, we are continuing to consider whether to use the mean or the median ratio in rescaling the radiology values.

c. Portable x-ray. Services of portable x-ray suppliers include a transportation component in addition to the professional and technical components. This component consists of payment for the transportation of the equipment to the patient and the setting up of the equipment at the patient's bedside.

In the interim final rule implementing the fee schedule for radiologist services (54 FR 8999), we instructed carriers to establish CFs for the services of portable x-ray suppliers separate from the CFs applicable to the services of all other entities. This action was taken under the authority of section 1834(b)(3)(8), which provided that we might consider specialty differentials in developing the radiologist relative value scale and fee schedule. Under the radiologist fee schedule, the global and technical component RVUs established under the radiology national relative value scale for radiologist services generally were multiplied by this separate CF when bills were submitted by portable x-ray suppliers. In addition, the carriers were instructed to develop

local RVUs for the HCPCS R codes (that is, level II diagnostic radiology services) that portable x-ray suppliers use to bill for the transportation component, and these local RVUs were multiplied by the separate CFs to compute the fee schedule amounts for the transportation component.

Section 1848(c)(6) precludes the recognition of specialty differentials in setting payment levels under the fee schedule that is the subject of this proposed rule. Thus, the authority we used as a basis for establishing the separate CFs for the services of portable x-ray suppliers under the radiologist fee schedule will no longer exist under the fee schedule for physicians' services.

Therefore, we are proposing that all three components of the services of portable x-ray suppliers be paid under the fee schedule for physicians' services using the same CF as is applicable to all other services payable under that fee schedule. We are currently studying how to standardize the billing and RVUs assigned to the transportation component and specifically invite comments on this issue. If we do not standardize these payments in the final rule, the carriers will continue to establish RVUs for the transportation components based on the circumstances under which portable x-ray services are furnished in their service areas.

d. Other radiology issues. There are several issues associated with the current fee schedule for radiologist services that result from differing past payment practices among carriers under the reasonable charge system. Some of these divergent payment practices were continued on a temporary basis under the initial implementation of the radiologist fee schedule with the understanding that standard payment procedures would be established at a later date. We need to standardize these policies as a part of the physician fee schedule implementation.

One area of divergent payment practices involves interventional radiological services. Many interventional radiological procedures have dual CPT codes differentiating between the "complete procedure" (the radiological aspect of the procedure plus the injection of contrast materials and other pre-injection and post-injection services) and the "supervision and interpretation (S&I)" portion (the radiological aspect) of the complete procedure.

Under the CPT coding descriptions, if a physician furnishes all aspects of the interventional procedure, the physician must use the complete procedure code in billing for the procedure. However, if the complete procedure is furnished by a

radiologist-nonradiologist physician team, the S&I code must be used for the radiological portion of the procedure while the other services are billed using nonradiological codes. Thus, the latter services are payable on a reasonable charge basis even though the S&I portion of the complete procedure became payable under the radiologist fee schedule beginning April 1, 1989.

In the process of developing payment procedures for the radiologist fee schedule, we discovered that the individual practices of Medicare carriers varied in the application of these codes. Some carriers permitted or required radiologists who performed complete procedures not to bill using the single complete procedure codes. Therefore, those physicians split their billings between the S&I radiologic codes and surgical or other nonradiologic codes even though they furnished the complete procedure. The national organizations representing physicians who furnish interventional procedures strongly advocated the continuation of this component-part billing and the exclusion of complete procedure codes under the radiologist fee schedule. We decided that individual carriers' past practices regarding the strict application of the CPT coding descriptions would be continued during the first year of the radiologist fee schedule. Subsequently, section 6105(c) of Public Law 101-239 required that this continuation of component-part billing be applied in 1990 on the same basis as it was applied in 1989. Section 4102(h) of Public Law 101-508 extended this policy through 1991.

Our proposal to standardize payment procedures for interventional radiological services effective with the implementation of the overall fee schedule follows:

- Discontinue the use by carriers of the CPT complete procedure codes that describe interventional radiological services.

- Pay for the radiological aspect of interventional procedures as described by supervision and interpretation (S&I) CPT codes and the primary nonradiological service associated with the procedure, as described by a nonradiological procedure code, such as a surgical code at the full fee schedule amounts subject to the deductible and coinsurance.

- For any other procedure code associated with the procedure, pay 50 percent of the amount that would be otherwise payable for the first additional procedure, 20 percent for the second, and 10 percent for each additional procedure. Do not reduce payments for any procedure code for

which the RVUs already reflect a reduction. For example, the CPT code 75774 ("Angiography, selective, each additional vessel studied after basic examination; supervision and interpretation only") is assigned a reduced value that reflects the fact that it is performed at the same time as the basic examination.

Addressing this matter has been difficult because of the complexity of the issues involved and the apparent lack of general agreement as to the component parts of a complete interventional procedure. There have been several meetings between HCFA and representatives of the physicians who furnish these types of services, and there seems to be a reluctance on the part of the latter group to define the components of even normal, uncomplicated interventional procedures. In the absence of specific information, any standardization of carrier payment procedures utilizing both complete and S&I procedures would be problematic. The whole matter is further complicated by the fact that, under the proposed payment system, the RVUs of the nonradiological components of interventional procedures were established under the Harvard study while the radiological procedure values were established under a different system and adapted to the Harvard system. At this time, it is not clear that the complete procedure RVUs developed by the American College of Radiology and accepted by us are appropriately related to the values assigned to the nonradiological services associated with interventional procedures under the Harvard study.

This "split-billing" problem originally came to our attention in the latter stages of development of the fee schedule for radiologist services. At that time, the problem was viewed, essentially, as one of inconsistent application of the CPT coding system by Medicare carriers. That is, there was no problem when a radiologist-nonradiologist physician team furnished the services since the use of S&I codes plus component-part billing on a reasonable charge basis for the other services was clearly appropriate. It had previously been decided that injection codes billed in connection with radiological procedures would not be payable under the radiologist fee schedule since these codes generally described services furnished by physicians other than radiologists. There was no problem when complete procedure codes were used since the injection procedures would, in effect, be payable under the radiologist fee schedule through the

complete procedure payments. The problem arose when the same physician (or physician group) furnished the complete interventional procedure but, contrary to the CPT coding descriptions, were allowed or required by carriers to bill on an S&I plus component-part basis. It may be presumed that this situation most often resulted in higher payment levels under the fee schedule for radiologist services than would have been the case had the CPT requirement to use complete procedure codes been followed.

Because of the problems associated with identifying the nonradiological services that were furnished in connection with interventional procedures and entering the payment amounts and RVUs in the locality-based CFs, a decision on the whole matter was deferred during the initial implementation of the fee schedule. At that time, we fully expected that the payment amount and RVUs of the nonradiological services would be included in recomputing 1990 CFs for the affected carriers, and that a national policy of strict adherence to CPT coding by all carriers would be established.

However, as has been pointed out earlier in this discussion, Congress has acted on two occasions to preclude the imposition of conformity with the CPT coding system in this matter and to preserve the ability of physicians who furnish the entire interventional procedure to bill separately for the component parts of the procedures. In effect, this policy permits these physicians to bill for their services on the same basis as physicians who only furnish components of the interventional procedures. Therefore, we believe that our proposed approach to this matter is consistent with Congressional intent as expressed in the two actions noted above. Further, it is consistent with our goal, as expressed in the model fee schedule discussion of this issue, that Medicare pays the same amount regardless of how the services are billed.

Under our proposal, carriers would pay the full amount payable under the fee schedule for both the radiological and the primary medical/surgical service associated with the complete interventional procedure. Additional services furnished would be payable at a reduced amount. We would pay 50 percent of the otherwise payable fee schedule amount for the first additional procedure, 20 percent for the second procedure, and 10 percent for each additional procedure. This reduction is consistent with our policy regarding

payment for multiple surgical procedures described elsewhere.

A second area of divergent payment procedures under the radiologist fee schedule involves payments for the delivery of radiation therapy services that recognize the type of equipment used in treating individual patients. This is an issue that affects payments only for the technical component of these procedures since the professional component services are unaffected by the equipment used.

Under the fee schedules for radiologist services, the national relative value scale did not provide for payment differentials based on the equipment used in the delivery of radiation therapy services. This is because the CPT coding system has not generally based its procedure descriptions on the type of radiation therapy equipment used.

In the past, several carriers, primarily located in one area of the country, instituted local codes for use in paying for radiation therapy services that specified the type of equipment. Because of the long-standing status of those local codes, certain carriers who factored them into the radiologist fee schedule CF calculations were permitted to continue to recognize them for payment purposes. The use of these local codes was restricted to freestanding radiation therapy centers that billed only for the technical component of radiation therapy services. In general, no other equipment-specific differentials are made.

As of 1991 (effective March 1, 1991 for Medicare purposes), the CPT coding system includes codes for radiation treatment delivery (codes 77401 through 77414) that take into account the various energy levels used in radiation therapy services. We view this change in coding structure as an opportunity to eliminate equipment-specific local codes and to base payment differentials on the actual energy level furnished to the beneficiary rather than the capability of the equipment.

We have modified the instructions in section 5262K of the Medicare Carriers Manual to take these new codes for radiation therapy services into account as of their March 1, 1991 effective date. Since the CPT revision creates separate codes for the professional and technical components and provides for four energy levels of technical component weekly treatment management code, global billing for these types of radiation therapy services is no longer practical.

Therefore, under the revised manual instructions, we have ended global billings for radiotherapy weekly treatment management codes 77420,

77425, and 77430. These 3 codes are now professional component-only codes and are billed separately from the 13 new technical component-codes that specify the energy levels used on an individual occasion of service within the simple, intermediate, and complex categories described by the 3 weekly management codes. The revised instructions provide RVUs that are based on the values assigned to their predecessor codes. That is, the five new treatment delivery codes applicable to simple treatment management carry the relative value units previously assigned to the technical component of CPT code 77400, "Daily megavoltage treatment management; simple". This aspect of the change in procedures is budget-neutral since the payment level for the technical components of radiation therapy services has not been changed. We are proposing that any future change in the technical component RVUs to reflect energy differentials will likewise be budget-neutral, and local codes and RVUs that reflect equipment will not be used under the overall fee schedule effective for services furnished beginning January 1, 1992.

A third area of divergent payment practices relates to the use of low osmolar contrast media for radiological studies. In April 1989, when the radiologist fee schedule was implemented, the question of the treatment of low osmolar contrast material, also known as non-ionic contrast material, was raised. At issue was the concern that there was no definitive study showing that the benefits of using this material justified the very high additional costs. Some estimates showed that if all radiologic studies requiring contrast materials were to use non-ionic materials, the increased costs to the Medicare program would be very substantial. The purported benefit of non-ionic contrast media was to lessen the incidence of adverse reactions to radiologic contrast media.

We surveyed Medicare carriers about their payment policies for low osmolar contrast materials. We found that some carriers made separate payments and others were paying for these materials through the payment for the diagnostic procedure. As a result of our concern over the use of low osmolar materials, we froze the payment policies of each carrier in place as of April 1989 while we studied the issue. We announced this policy in the Medicare Carriers Manual (section 5262.I.).

Since our policy on non-ionic materials was announced, a major clinical study on adverse reactions to

contrast media was published by Katayama et al. in *Radiology* 1990; 175:621-628. In addition, in late 1990, the American College of Radiology (ACR) adopted as policy a report entitled "The Current Criteria for the Use of Water Soluble Contrast Agents for Intravenous Injections". We are proposing to accept the ACR criteria, with some modifications, as the basis for a policy that separate payments be made for low osmolar contrast media in intravenous radiological procedures when it is used for patients with one or more of the following characteristics:

- A history of a previous adverse reaction to contrast material, with the exception of a sensation of heat, flushing, or a single episode of nausea or vomiting.

- A history of asthma or allergy.
- Significant cardiac dysfunction including recent or imminent cardiac decompensation, severe arrhythmias, unstable angina pectoris, recent myocardial infarction, and pulmonary hypertension.

- Generalized severe debilitation.
- Sickle cell disease.

We have not yet developed a fee schedule allowance for the non-ionic contrast material and are in the process of obtaining cost information from manufacturers and other sources. We welcome comments on this issue as well as comments on the proposed criteria for payment. Furthermore, we are developing estimates as to the additional costs that will be incurred by the program for the contrast media. We intend to take this estimate into account in computing the budget neutral CF.

Finally, there are a few more details of the radiologist fee schedule that we are proposing to clarify. CPT-4 procedure codes 77336 and 77370 describe medical radiation physics consultations in support of the therapeutic radiologist. As such, they do not represent services of the physician; rather, they are services furnished by physicists who are not physicians. We are proposing to change the distribution of the RVUs assigned to these two codes from an allocation between professional and technical components to technical component-only codes. This change would primarily affect payments for services furnished to hospital inpatients and outpatients since there would no longer be carrier payments under these codes. Consultations by physicists furnished to hospital inpatients would be payable through the DRG payments to the hospital, and consultations by physicists furnished to hospital outpatients would be payable by intermediaries as hospital services. Payment in free-standing radiology

centers or physicians' offices would essentially be unchanged by this new policy because payment would be based on the current global RVU (but would be for a technical service only).

We are also proposing to designate CPT-4 codes 78990 and 79900 as technical component-only codes. These codes describe the furnishing of diagnostic and therapeutic radionuclide(s) associated with nuclear medicine procedures and represent a variety of substances. They are and will continue to be locally priced by carriers depending on the substance used.

6. Anesthesia Services

Anesthesia services are paid on the basis of a reasonable charge that is determined by multiplying a reasonable charge CF by the sum of allowable base and time units. The base unit is a specified numerical value assigned to the anesthesia procedure. The time unit is calculated from the amount of "anesthesia time" associated with the anesthesia procedure.

Before March 1, 1989, each carrier was allowed the choice of a relative value scale; this led to considerable variation across the carriers in the number of base units allowed per procedure. In addition, with the exception of a few carriers, surgical codes, not anesthesia codes, were used to report anesthesia services. Section 4048(b) of Pub. L. 100-203, mandated that the Secretary develop a uniform relative value guide for physician anesthesia services and ensure that expenditures under the uniform relative guide did not exceed the amount of the expenditures that would otherwise have occurred.

Proposed regulations were published January 26, 1989 (54 FR 3794). We issued instructions to our carriers in February of 1989 (Medicare Carriers Manual Transmittal No. 1287) for implementing the uniform relative value guide. The uniform relative value guide was implemented by the carriers effective for anesthesia services furnished beginning March 1, 1989.

Under the uniform relative value guide, each CPT anesthesia code is assigned a base unit value. There are approximately 250 anesthesia codes. The base units vary from a low of 3 units for a procedure such as anesthesia for biopsy of a clavicle to a high of 30 units for anesthesia for a liver transplant. The base unit reflects the value of all physician anesthesia services except the time actually spent in anesthesia care. The base value includes usual pre-operative and post-operative visits, the administration of fluids and blood incident to the anesthesia care, and monitoring

procedures. The base unit for an anesthesia procedure that is medically directed by a physician differs from the base unit for an anesthesia procedure that is personally performed by the physician. A physician can medically direct more than one procedure simultaneously. For anesthesia procedures furnished after March 31, 1988 but before January 1, 1990, the base units are reduced by 10 percent for each of 2 concurrent medically directed procedures, by 25 percent for each of 3 concurrent medically directed procedures, and by 40 percent for each of 4 concurrent medically directed procedures.

Anesthesia time starts when the physician or anesthesiologist begins to prepare the patient for induction and ends when the patient may be safely placed under post-operative supervision and the physician or anesthesiologist is no longer in personal attendance. The number of allowable time units is calculated by dividing anesthesia time in minutes by a denominator of 15 or 30 minutes. The denominator of 15 minutes is used if the physician personally performs the anesthesia procedure. The denominator of 30 minutes is used if the physician medically directs concurrent anesthesia procedures involving qualified anesthesiologists. As a result of section 6106 of Pub. L. 101-239, only the actual time of the fractional time unit is allowed for anesthesia services furnished after March 31, 1990. Previously, a fractional time unit was considered a full time unit. For example, before April 1, 1990, if a personally performed procedure took 67½ minutes, 5 time units would have been allowed (67.5 minutes divided by 15 minutes equals 4 full units and a fractional unit that was rounded to a full unit). For the same procedure performed after April 1, 1990, only 4½ time units would be counted.

a. Integration of anesthesia services into the physician fee schedule. Section 1848 of the Act contains a specific provision governing payment for anesthesia services under the physician fee schedule. Section 1848(b)(2)(B) requires the Secretary to use, to the extent practicable, the uniform relative value guide, with appropriate adjustment of the CF, in a manner to assure that the fee schedule amounts for anesthesia services are consistent with the fee schedule amounts for other services determined by the Secretary to be of comparable value. In addition, the Secretary must adjust the anesthesia CFs by GAFs in the same manner as the adjustment is made for other physicians' services. The legislation is silent on time

units and whether they must be incorporated as a separate element under the fee schedule.

b. Elimination or continuation of recognition of time units. The inclusion of actual elapsed time in computing payments is unique to anesthesia services. There are three options for handling anesthesia time under the fee schedule. We could eliminate actual anesthesia time altogether and combine base and time units per procedure into a single work unit value. This would be accomplished by determining an average time unit value per procedure for both personally performed and medically directed anesthesia procedures. Conversely, we could recognize only actual time associated with surgical time and increase the base unit to include pre- and post-surgical anesthesia time. Lastly, we could continue the current policy that recognizes actual anesthesia time by procedure.

There are several reasons for eliminating the use of actual time for anesthesia services. First, program administration would be simplified. Second, physician anesthesia services would be treated the same as other physician services. Finally, the opportunity for physicians to manipulate payment, by varying time, would be eliminated. Pre- and post-anesthesia times, in particular, are determined by the anesthesiologist and could be manipulated in individual circumstances.

The major justification for recognizing only actual time associated with the surgical time is that surgical time is not controllable by the anesthesiologist. The merging of only pre- and post-anesthesia times into the RVU would remove any incentive or ability the anesthesiologist has to increase pre- or post-surgical anesthesia time. This option has some appeal, and we are exploring sources of data to establish pre- and post-anesthesia times per anesthesia procedure.

The justification for continuing the current policy that recognizes actual anesthesia time is the impact that the elimination of actual time would have on certain types of anesthesia practice arrangements. The American Society of Anesthesiologists (ASA) has asserted that the use of average time would systematically result in decreased payments to teaching anesthesiologists and increased payments to anesthesiologists who work in ambulatory surgical centers (ASCs). The ASA has expressed concern that some of the anesthesia codes involve surgical procedures with widely different operative times so that an averaging

concept may not yield equitable results for a given case or for an individual anesthesiologist. We are willing to consider adding CPT codes for anesthesia with varying operative times to deal with this problem and invite ASA and other commenters to offer recommendations on anesthesia codes that need to be expanded. To assure that the result is budget neutral, we need to keep the average relative values for the expanded codes equivalent to the value for the current anesthesia code. To accomplish this, we need to consider the relative frequency of the surgical codes comprising the anesthesia code, and derive average time from a variety of sources including expert advice, BMAD files, and data on operative time from the Harvard study and other sources.

The GAO conducted a study on anesthesia time units in accordance with section 4048 of Public Law 100-203. In its report "Medicare Variation in Payments to Anesthesiologists Linked to Anesthesia Time" (GAO-HRD-91-43), the GAO recommended that we either completely eliminate actual time or link anesthesia time to surgical time. This recommendation was supported by findings that there were significant unjustified variations in presurgical anesthesia time.

We previously announced, in both the January 26, 1989 proposed rule and the August 7, 1989 final rule (55 FR 32078), to implement the uniform relative value guide, our intention to eliminate the separate time unit element of the anesthesia payment system. We announced that time would be eliminated within two years of the effective date (September 7, 1990) of the final uniform relative value guide. Consistent with this intention, we are now proposing, in this rule, the elimination of time units effective for physician anesthesia services furnished beginning January 1, 1992.

Under the physician fee schedule payment system, anesthesia services would be paid in a manner consistent with the payment methodology for other physicians. Payment would be determined by multiplying a national CF by a GAF and by RVU per anesthesia procedure that is composed of work, practice cost, and malpractice components. Since we would have the same general CF for all physician services, we would adjust the average base and average time units per anesthesia procedure so that they are on the same Harvard work scale as all other physician services. We would develop different average units which incorporate different base unit values depending upon whether the anesthesia

procedure was personally performed, medically directed as one of two, three, or four concurrent procedures, or medically supervised. There would be different numbers of units because of the different payment rules that apply to anesthesia depending on the way in which the services were furnished.

c. Method for integrating anesthesia services. Since anesthesia services would be treated no differently than other physicians' services for payment purposes, we computed a single CF applicable to all physicians' services, that is, both anesthesia and nonanesthesia services alike.

We have work values from the Harvard study for 19 anesthesia services. (Data were provided for 23 services commonly furnished by anesthesiologists, of which 4 are medical/surgical services.)

We computed total work, practice expense, and malpractice RVUs for the 19 surveyed anesthesia procedures on the assumption that these 19 procedures are representative of the universe of anesthesia procedures. In effect, the allowed charges and the actual frequencies for the 19 anesthesia procedures are adjusted upward as if these 19 procedures represent all anesthesia services. Because the unit values for work, practice expense, and malpractice would differ across anesthesia practice arrangements, we had to calculate the adjusted allowed charges and adjusted frequencies associated with each of the five different anesthesia practice arrangements. The five different practice arrangements are personally performed, two, three or four concurrent medically directed procedures and medically supervised procedures. The CHER provided us with data derived from the 1989 BMAD files that allows us to calculate the distribution of the five anesthesia practice arrangements for the 19 anesthesia procedures.

The actual work values for the 19 procedures differ, but not materially, from the reported Harvard work values. This is due to rescaling. To compute work values for the unsurveyed anesthesia procedures, we calculated the relationship between the work values for the 19 surveyed procedures and the base and average time unit value for the same procedures. In computing this rescale factor, we weighted equally each of the 19 procedures. We used this rescale factor with the base and average time unit value per procedure to derive work values for all anesthesia services, including the 19 surveyed procedures. Average time unit values per procedure

were calculated from a sample of personally performed anesthesia services from the 1990 National Claims History (NCH) file.

We identified the anesthesia codes when the NCH sample size was too small (fewer than 50 occurrences) to be used for computing the average time unit value per procedure code. Approximately 45 percent of the anesthesia codes fell into this category. For these codes, we imputed an average time unit. The imputed time unit average was derived by grouping all anesthesia procedures with the same base unit value into a single category and computing an average time unit value by category. For example, the average time unit value for all anesthesia procedures that have a base unit value of 3 units is 4.6 time units. If a certain procedure code with a base unit value of 3 units had less than 50 reported cases, we substituted the value of 4.6 units for the actual time unit value.

Practice expense and malpractice relative values were calculated for each anesthesia procedure for each type of practice arrangement. The national average allowed charge per procedure was computed by multiplying the national average CF by the sum of base and average time units per procedure. The practice expense RVU was computed by multiplying the national average allowed charge per procedure by the anesthesia specialty practice expense percentage, that is 23.2 percent. A similar calculation was performed to determine the malpractice RVU per procedure. (A detailed discussion on the computation of practice expense and malpractice RVUs appears in section IV.C.8.)

For each anesthesia procedure code, there are 5 different relative values per code, depending upon whether it is personally performed; medically directed as two, three, or four concurrent procedures; or medically supervised.

d. Payment for specialized services furnished by anesthesiologists. The policies of carriers are mixed with respect to recognition of separate payment for the insertion of Swan-Ganz catheters, intra-arterial lines, and central venous pressure lines. There are fewer than 10 carriers who do not recognize separate payment for the insertion of Swan-Ganz catheters by an anesthesiologist when it is performed as part of an anesthesia procedure. However, there are almost 20 carriers who do not recognize separate payment for the insertion of intra-arterial lines or central venous pressure lines. Almost all carriers that do not recognize payment for the insertion of intra-arterial lines

also do not recognize separate payment for the insertion of central venous pressure lines. The carriers that do not recognize separate payment for the insertion of catheters or lines do so on the basis that payment for this service is included with the payment for the anesthesia service. Payment by these carriers for the insertion of lines or catheters would be reflected in the aggregate expenditures for physician anesthesia services but not separately identified. In total, these specialized procedures account for less than 3 percent of total anesthesia procedures.

There are essentially two options for developing a standardized national policy regarding this issue. We could bundle payment for these specialized procedures into the anesthesia payment. An advantage to bundling is we would be ending what appears to be at least partial duplicate payment. Since anesthesia services are paid on a base and time unit basis, we are paying time and also allowing separate payment for the insertion of catheters or lines. We are effectively paying twice for the episode during which the physician inserts the line or catheter. Bundling also could simplify future program administration but would be difficult to accomplish through the initial fee schedule calculation. These specialized procedures are not procedure specific, that is, they do not take place every time a certain anesthesia procedure is performed. Rather, they are patient specific, that is, a patient who is classified into a poor physical health status will require the specialized procedure. A further problem with bundling would be how to determine payment if a cardiologist or other nonanesthesiologist physician specialist performs the procedure and seeks payment. Presumably this could be handled in a manner consistent with what we do when a surgeon performs less than the complete global service, that is, by reducing payment to the anesthesiologist.

The alternative to bundling is to allow separate payment for these specialized procedures. This approach would be consistent with the coding system. Under the coding system, these specialized procedures are listed as surgical or medical services. Since a package-type payment is being made only for anesthesia services, the package-type payment does not include payment for other medical and surgical services that an anesthesiologist may furnish. Also, a large percentage of these services are furnished by nonanesthesiologist specialists, and virtually all carriers permit separate

payment for these services when furnished by nonanesthesiologists.

Because we are eliminating anesthesia time, we are proposing to allow separate payment for specialized procedures when these procedures are furnished in conjunction with an anesthesia procedure or as an unrelated procedure. It is likely that nonanesthesiologists are furnishing the specialized services and are being separately paid in those carriers when no separate payment is currently allowed for the anesthesiologist's performance of the specialized service. If this assumption is correct, we would not have to make any adjustments to ensure a budget neutral result. However, if the converse is true, we may have to adjust upward the frequency count of specialized procedures.

e. Monitored anesthesia care. The furnishing of anesthesia services may involve general or monitored anesthesia care (MAC). Under MAC, a patient may be anesthetized by the surgeon or anesthesiologist, using a local or regional anesthetic, while the anesthesiologist continually monitors or medically directs the monitoring of the patient's condition. Payment for the medically necessary MAC services is made in the same manner as for general anesthesia. There is presently no process to identify monitored anesthesia care cases from general anesthesia cases.

The OIG has prepared a final report entitled "Medicare Coverage and Reimbursement for Monitored Anesthesia Care". This report recommends that monitored anesthesia care be specifically identified on the claim form with a uniform modifier. We are adopting this recommendation and providing for a uniform modifier to be used with the anesthesia code to identify monitored anesthesia care. This will also allow us to determine the extent to which monitored anesthesia care cases are furnished and whether there is a need to establish a different payment policy for these procedures.

f. Other anesthesia issues. There are different payment policies for the physician's anesthesia services depending upon whether the anesthesiologist is directing or supervising interns or residents, CRNAs, or student nurse anesthetists.

We allow the teaching physician to be paid on an unreduced reasonable charge basis when the teaching physician fulfills the "attending physician" requirements and is present when the intern or resident furnishes physicians' services (§ 405.521). For anesthesia services, this means that we allow

payment on the basis of unreduced base units and one time unit per 15 minutes when the anesthesiologist establishes an attending physician relationship with a patient by involving an intern or resident in the patient's care. In addition, when there are unusual circumstances, our program instructions, section 8310.F. of the Medicare Carriers' Manual, allow the teaching anesthesiologist to be paid the unreduced reasonable charge for two concurrent cases involving interns or residents. We are aware, however, that this policy is not being administered uniformly by the carriers. Some carriers routinely recognized unreduced reasonable charge payments whenever the teaching anesthesiologist becomes involved in two concurrent cases involving interns or residents.

On February 7, 1989 (54 FR 5946), we published proposed regulations (FR) on payments for physicians' services furnished in teaching hospitals. To promote program uniformity and to establish a policy consistent with anesthesia practices of teaching hospitals, we proposed to recognize an attending physician relationship if an anesthesiologist is concurrently involved with two intern or resident cases. In addition, we proposed to recognize an attending physician relationship if an anesthesiologist concurrently directs one intern or resident and no more than one CRNA or other qualified individual. The majority of commenters, who were principally teaching anesthesiologists, commented favorably on our proposal. However, one organization, the American Association of Nurse Anesthetists, commented that this payment system would create financial incentives to use interns or residents rather than CRNAs.

Our payment rules on medical direction apply whenever the anesthesiologist medically directs two, three, or four concurrent procedures involving qualified anesthetists. Under the medical direction payment rules, payment is based on reduced base units plus one time unit per 30 minutes. The base units are reduced by 10 percent for each of two concurrent procedures, 25 percent for each of three concurrent procedures, and 40 percent for each of four concurrent procedures.

A major concern with these policies is that when there is a choice of using an

intern or resident or other qualified nonphysician anesthetist, there is a financial incentive for the anesthesiologist to choose the intern or resident because payment will not be reduced.

We have re-evaluated our previous published proposed policy and have decided to remove the incentive to choose an intern or resident over a nonphysician anesthetist. We also wish to establish a medical direction payment policy that is consistent for concurrent procedures regardless of whether they involve interns, residents or CRNAs. To accomplish this goal, we are proposing to recognize an attending physician relationship only if a teaching anesthesiologist is involved with a single procedure involving an intern or resident (§ 415.42).

7. Physician Pathology Services

In the model fee schedule, we mentioned that section 6102(g) of Public Law 101-239 required implementation of a separate fee schedule for physician pathology services on January 1, 1991—1 year before implementation of the overall physician fee schedule. Shortly after the model fee schedule was published, Congress enacted section 4104 of Public Law 101-508, which repealed both this requirement and section 4050 of Public Law 100-203, which required us to develop a relative value scale for physician pathology services. Thus, physician pathology services would be treated like other physician services under the fee schedule, beginning January 1, 1992.

Of the approximately 1100 services listed in the pathology section of the CPT, only 57 services qualify as physician services. The remainder of pathology services are considered clinical laboratory services and are excluded from the physician fee schedule by section 1848(j)(3) of the Act. As part of its cooperative agreement with us, the Harvard study team has provided relative values for the physician work associated with physician pathology services. While the Harvard findings will allow us to compute payment amounts for the professional component of physician pathology services, section 4104(c) of Public Law 101-508 also requires that we develop an appropriate adjustment to reflect the technical component of

furnishing physician pathology services through a laboratory that is independent of a hospital and separate from a physician's office. The problems associated with developing relative values for the technical components of pathology services are discussed below when we discuss technical components generally.

8. Charge-Based Computation of Practice Expense and Malpractice RVUs

Section 1848(c)(2)(C) of the Act prescribes that the Secretary compute practice expense and malpractice RVUs by applying historical practice cost percentages to a base allowed charge for each service. The base allowed charge would be computed by estimating the 1991 national average allowed charge for a service. Historical charge and frequency data for 1989 would be adjusted to approximate 1991 charges, accounting for changes in payment rules between 1989 and 1991 and the most current definitions of units of service, such as the global surgery policy.

The historical practice cost percentages would be computed as follows. First, the average percentage division of resources among the work, practice expense, and malpractice components for each medical specialty would be determined, using practice expense and malpractice cost data from a 1989 survey of office-based physicians conducted by the AMA. For specialties not included in the AMA study sample we requested estimated percentages directly from national specialty societies.

We are using data supplied by the American Optometric Association, the American Podiatric Medical Association, and the American Chiropractic Association. Additionally, for clinics and other group practices, we are using data from the Medical Group Management Association. In computations for this proposed rule, when no other data were available, we used averages across all physicians. A summary of the historical practice cost data used in computing practice expense and malpractice RVUs for this proposed rule is provided in the following table.

BILLING CODE 4120-01-M

Physician Revenues, Net Income and Practice Expenses - 1989

05/23/91

AMA Specialty	HCFA Specialty	HCFA SPECIALTY CODE	As a % of Mean Total Revenue		
			MEAN NET INCOME	MEAN EXPENSES NET LIABILITY	MEAN LIABILITY EXPENSES
All Physicians			54.2%	41.0%	4.8%
General/Family Practice	Family Practice	08	43.9	52.2	3.9
	General Practice	01	43.9	52.2	3.9
Internal Medicine			50.8	46.4	2.8
General Internal Medicine	Internal Medicine	11	50.8	46.4	2.8
Cardiovascular Disease	Cardiovascular Disease	06	61.2	36.1	2.7
Other	Allergy	03	56.9	40.5	2.6
	Gastroenterology	10	56.9	40.5	2.6
	Geriatrics	38	56.9	40.5	2.6
	Nephrology	39	56.9	40.5	2.6
	Pulmonary Disease	29	56.9	40.5	2.6
Surgery			60.8	31.8	7.4
General Surgery	General Surgery	02	60.8	31.8	7.4
Otolaryngology	Otology, Laryngology, Rhinology	04	49.9	45.2	4.9
Orthopedic Surgery	Orthopedic Surgery	20	47.4	45.2	7.4
Ophthalmology	Ophthalmology	18	53.3	44.4	2.3
	Ophthalmology, Otology, Laryngology	17	53.3	44.4	2.3
Urological Surgery	Urology	34	56.2	39.9	3.9
Other	Hand Surgery	40	53.5	38.9	7.6
	Neurological Surgery	14	53.5	38.9	7.6
	Peripheral Vascular Disease or Surgery	23	53.5	38.9	7.6
	Plastic Surgery	24	53.5	38.9	7.6
	Proctology	28	53.5	38.9	7.6
	Thoracic Surgery	33	53.5	38.9	7.6
Pediatrics	Pediatrics	37	47.6	49.3	3.1
Obstetrics/Gynecology	Gynecology	09	53.2	38.0	8.8
	Obstetrics	15	53.2	38.0	8.8
	Obstetrics-Gynecology	16	53.2	38.0	8.8
Radiology	Diagnostic X-Ray (Groups) 1\	71	46.2	50.5	3.3
	Radiation Therapy	32	59.8	37.2	3.0
	Radiology	30	59.8	37.2	3.0
	Roentgenology, Radiology	31	59.8	37.2	3.0
Psychiatry	Psychiatry	26	69.9	26.4	3.7
	Psychiatry, Neurology	27	69.9	26.4	3.7
Anesthesiology	Anesthesiology	05	69.5	23.2	7.3
Pathology	Diagnostic Laboratory (Groups) 1\	72	46.2	50.5	3.3
	Pathologic Anatomy, clinical	21	69.6	28.5	1.9
	Pathology	22	69.6	28.5	1.9
Emergency Medicine	No HCFA Match (used for 90500-90590)		65.4	30.1	4.5
Other Specialty					
Other	Dermatology	07	56.7	40.3	3.0
	Occupational Therapy (Groups) 1\	74	46.2	50.5	3.3
	Other Medical Care (Groups) 1\	75	46.2	50.5	3.3
	Neurology	13	56.7	40.3	3.0
	Nuclear Medicine	36	56.7	40.3	3.0
	Physical Medicine and Rehabilitation	25	56.7	40.3	3.0
No AMA Match	Clinic or Other Group Practice (Groups) 1\	70	46.2	50.5	3.3
No AMA Match	Oral Surgery 2\	19	40.9	54.7	4.4
No AMA Match	Optometrist 3\	41	47.0	52.9	0.1
No AMA Match	Podiatry 4\	48	48.0	47.8	4.2
No AMA Match	Chiropractor, Licensed 5\	35	39.8	58.4	1.8
No AMA Match 6\	Manipulative Therapy	12	54.2	41.0	4.8
	Miscellaneous	49	54.2	41.0	4.8
	Physical Therapy	65	54.2	41.0	4.8
	Occupational Therapist	67	54.2	41.0	4.8
	Physiotherapy	73	54.2	41.0	4.8

Source: American Medical Association, 1988-1990 Socioeconomic Monitoring System Core surveys except where indicated.

1\ Source: Medical Group Management Association, 1990 Cost and Survey Production Report

2\ Source: American Association of Oral and Maxillofacial Surgeons

3\ Source: American Optometry Association

4\ Source: American Podiatric Medical Association

5\ Source: American Chiropractic Association

6\ For these remaining specialties, we are using the practice cost percents from the AMA for all physicians.

Second, the proportion of each service (or class of services for low volume procedures) performed by each specialty would be determined using Part B claims data. As discussed under data options for fee schedule development, we used 1989 BMAD files for this purpose in computing actual fee schedule values for this proposed rule.

Third, using this specialty-share information, an average practice expense percentage and an average malpractice percentage would be computed for each service (or class of services for low volume procedures). More precisely, the average practice expense percentage for a service or class of services would be calculated to be the sum for all specialties of the product of the average practice expense percentage for each specialty, multiplied by the proportion of that service performed by that specialty. The average malpractice percentage would be computed in the same way.

For example, consider the computation of a practice cost percentage for drainage of an eyelid abscess. Assume that this service is performed 20 percent of the time by family practitioners and 80 percent of the time by ophthalmologists. Further assume that, on average, family practitioners' practice expenses are 44.5 percent of total revenues and ophthalmologists' practice expenses are 45.3 percent of total revenues. The average practice percentage for this service would be calculated as follows:

$$(44.5\%)(.2) + (45.3\%)(.8) = 45.1\%$$

The final step in computing practice expense and malpractice RVUs would be to multiply the average practice expense or malpractice percentage for a service by the base allowed charge for that service. For the service described in our example, the practice expense percentage of 45.1 percent could be applied to a hypothetical \$100 base allowed charge to yield a practice expense RVU of 45.1. A parallel computation would yield a malpractice RVU on the same scale.

We will use the methodology described above to determine the RVUs for practice expense and malpractice for all physician services except emergency department services (CPT codes 90500 through 90590). For these services, we are proposing to use the practice expense and malpractice percentages for emergency physicians (30 percent for practice expense and 4.5 percent for malpractice) that will be applied directly to the base allowed charge. We would not determine the average percentage division of resources among all specialties furnishing these services. We

propose this method for emergency department services for the following reason.

We have not established a separate specialty code for emergency medicine. (However, we do intend to establish emergency medicine as a physician specialty in the future). Because emergency medicine is not an HCFA-defined specialty, physicians providing emergency department services have used other specialty codes. Our 1989 BMAD files reveal that over 90 percent of the services in the 90500 through 90590 range are associated with the specialties of general practice, family practice, internal medicine, and clinics or other group practices. For these physician specialties, the practice expense portion of gross revenues is between 46 and 52 percent compared with only 30 percent for emergency medicine. We are proposing that the lower practice expense percentage be used for services in the 90500 through 90590 range because we believe it better represents the lower practice expenses likely to be incurred when physicians perform these services in emergency departments.

As discussed later in section V. A., we are proposing to pay for office visits, hospital visits, and consultations based on new code definitions established by the CPT. Work RVUs for these codes are available through Phase III of the Harvard study. However, we cannot directly compute practice expense and malpractice RVUs for these new codes because we have no historical charge data for them. Therefore, we propose to base these practice expense and malpractice RVUs on aggregate allowed charges for existing codes, by class of visit or consultation (for example, office visits for established patients). We will allocate total practice expense and malpractice RVUs, by class of visit or consultation code, to new visit and consultation codes in proportion to work RVUs established for each code. For example, we would calculate practice expense (PE) RVUs for the new visit codes as follows:

Step 1: Compute PE RVUs for old codes and sum the amounts.

Old code ¹	Visit count (millions)	PE RVUs per visit	PE RVUs (millions)	Sum PE RVUs (millions)
9000060	10.70	6.42	149.90
90010	1.60	13.00	20.80	
90015	2.50	15.40	38.50	
90017 .....	.90	17.20	15.48

Old code ¹	Visit count (millions)	PE RVUs per visit	PE RVUs (millions)	Sum PE RVUs (millions)
90020	3.00	22.90	68.70	

¹ Copyright 1991 American Medical Association.

Step 2: Determine distribution of work RVUs for new codes.

New codes	Visit count (millions)	Work RVUs per visit	Work RVUs (millions)	Sum work RVUs (millions)
Level I60	13.00	7.80	220.70
Level II	1.60	17.00	27.20	
Level III	2.50	21.00	52.50	
Level IV .....	.90	28.00	25.20
Level V	3.00	36.00	108.00	

Step 3: Distribute current total PE RVUs to new codes in proportion to work.

New codes	Percentage of all work RVUs	PE RVUs in new codes (millions)	PE RVUs per visit for new codes
Level I .....	.04	5.30	8.83
Level II .....	.12	18.47	11.55
Level III .....	.24	35.66	14.26
Level IV .....	.11	17.12	19.02
Level V .....	.49	73.35	24.45

We would compute malpractice RVUs for the new codes in a similar manner. For purposes of this example, we have assumed that the frequency distribution for the new visit codes would be equal to the frequency distribution for the old visit codes. However, for some classes of visits, there are fewer new codes than currently exist (for example, there are currently 5 CPT codes for subsequent hospital care but only 3 new codes for this type of care). For these cases, we would combine the frequency counts as needed to achieve a mapping between the two coding systems. For example, for the current subsequent hospital visits, we would combine the frequencies for the two highest and lowest codes.

9. Combining Work, Practice Expense, and Malpractice RVUs Onto a Common Scale

Once the separate work, practice expense, and malpractice RVUs are computed for each service, they must be combined in a manner to produce a single relative value for each service, as required by section 1848(c)(2)(A) of the

Act. As explained above, the work RVU was initially scaled in units selected by the Harvard study, whereas the practice expense and malpractice RVUs were initially computed in dollar units. To combine these RVUs, we need to place the practice expense on a common scale with the Harvard work RVUs, which would be summed to provide a single RVU per service. We would further note that the scaling for all RVUs is essentially arbitrary because the RVUs and CFs jointly determine fee schedule payments. Increasing (or decreasing) the RVU scale merely requires a corresponding decrease (or increase) in the CF.

We have chosen to first convert Harvard work RVUs to dollar units and then to rescale all RVUs relative to the new Level 3 established office visit. We decided to rescale all RVUs in relation to the mid-level office visits for established patients because this procedure is performed by virtually all specialties and is one of the most frequently performed services. By assigning this procedure an RVU of "1", all specialties can more easily see the relative relationship of one procedure to another. This rescaling was accomplished as follows. First we multiplied Harvard work RVUs by a CF specific to the work component. This work CF is computed by dividing total allowed charges currently allocated for work (that is, average work percentage applied to allowed charges across all services furnished by all physicians) by the sum of all work RVUs for these services. Thus, the work CF, when multiplied by the Harvard work RVUs for any service, would yield a new work RVU value for the service expressed in dollars. This dollar-based work RVU value was added to the practice expense and malpractice RVUs for the service to produce a total RVU for that service. We then rescaled all RVUs using as the base the RVUs for the new Level 3 established office visits code (OE019). Thus, the rescaled RVUs for code OE019 sum to 1.0, and the values of all other services in Addendum B are displayed relative to code OE019.

10. Periodic review and adjustments in RVUs

Section 1848(c)(2)(B) of the Act addresses periodic review and adjustments in relative values. Specifically, section 1848(c)(2)(B)(i) requires the Secretary to review the relative values for physician services not less often than every 5 years. In addition, section 1848(c)(2)(B)(ii)(I) requires that the Secretary must adjust the number of RVUs to take into account changes in medical practice, coding

changes, new data on relative value components, or the addition of new procedures and must publish an explanation of the basis for these adjustments.

Section 1848(c)(2)(B)(ii)(II) specifies that the adjustments may not cause the amount of expenditures under part B for the year to differ by more than \$20 million from the expenditures that would have been made had the adjustments not been made. We describe the process by which we would implement these requirements for an ongoing review and adjustment process in § 415.24.

a. Proposed policy for review and adjustments. In § 415.24(a), we propose to announce RVUs for new services and changes in RVUs already in effect by publishing a proposed notice in the Federal Register with an opportunity for public comment no less often than every 5 years. After reviewing the public comments, we would publish a final notice in the Federal Register to announce additions or revisions to RVUs. While the statute requires that we review the RVUs already in effect no less frequently than every 5 years, we plan to publish annual proposed and final notices in the Federal Register to discuss the results of our review of the RVUs, the comments we have received throughout the year, and our proposed changes and additions, including interim values as discussed below. This ongoing process would be the mechanism by which we would conduct a periodic review of all RVUs as required by section 1848(c)(2)(B)(i) and our adjustment of the RVUs as required by section 1848(c)(2)(B)(ii)(1) of the Act.

We considered conducting periodic reviews of all RVUs on a less frequent basis than yearly (for example, every 5 years as permitted by the statute). The law gives us the flexibility to perform periodic reviews of RVUs more frequently than every 5 years. We believe that more frequent reviews would be more efficient and appropriate, given the frequent changes in coding, medical practice, and health care technology. This ongoing approach to review and adjustment of RVUs would not prevent us from periodically conducting a more extensive review of all RVUs. For example, we might undertake a research effort (similar to the Harvard study) that would systematically review the relative value of physicians' services so that we could rebase all of the RVUs on the most current research findings at that time.

b. Establishment of interim RVUs for new or revised services. In § 415.24(b), we propose that we would, as needed,

establish interim RVUs for new services or to recognize changes in definitions of codes for services. We believe that section 1848(c)(4) of the Act permits us to provide for the creation of interim values, as an ancillary policy " * * * necessary to implement this section."

We propose to establish interim values for services with revised definitions as well as for new services.

c. Options for establishing and revising RVUs for existing, revised, and new services. We considered several ways of establishing RVUs for new or revised services and of reviewing and adjusting existing RVUs before deciding to propose this option. The options we considered follow:

(1) If we made all additions and changes to RVUs (standing/new/revised) via proposed and final notices with no provision for interim changes due to new or revised codes, this approach would—

- Provide for full public comment on RVUs for new services and revisions to RVUs (whether caused by revised codes or otherwise); and

- Result in an absence of national uniformity in payment during the year in which we would implement RVUs for new or revised codes through proposed and final notices. During that period, carriers would set payment amounts at their own discretion.

(2) If we made all changes to RVUs (standing/new/revised) through an administrative process, not through rulemaking, but published periodically in the Federal Register an explanation in a final notice (probably once a year), this approach would—

- Provide sufficient flexibility for us to establish or change RVUs as needed.

- Appear to be permissible by the law, which requires us only to publish an explanation of any adjustments we make to RVUs (section 1848(c)(2)(B)(ii) of the Act). Consultation with PPRC and physician groups (required by section 1848(c)(2)(B)(iii) of the Act) could be informal.

- Not provide the public with the opportunity to comment on changes in RVUs for existing services, or RVUs for new or revised codes.

(3) If we made changes to RVUs (standing/new/revised) through publication of proposed and final notices in the Federal Register but provided an "interim value" process that would allow us to quickly implement national RVUs for new/revised codes, this approach would—

- Provide a vehicle for quickly establishing interim RVUs and payment amounts for new or revised codes. (We would issue interim RVUs for new or

revised codes through updates to the Medicare Carriers Manual. RVU changes for established codes would only be made through a public notice and comment process.)

- Maximize national uniformity in payment since, absent national payment amounts, carriers would have authority to set payment amounts.

- Provide opportunity for public comment on RVUs for new services and revisions to standing RVUs.

We believe Option 3 is the best option available to us. This option provides for an open public process for establishing values for new services and for changing standing values, while also permitting us the flexibility we need to keep the fee schedule as up to date and nationally uniform as possible. It is important to note that no retroactive changes in RVU values would be made; changes from interim to final values would be made prospectively. We believe that this policy for establishing and revising RVUs for existing, revised, and new services is the sort of ancillary policy that Congress intended to authorize under section 1848(c)(4) of the Act.

d. Creation and review of RVUs for new or revised services. We anticipate that the "interim value" process would result in interim values being added to the 1/3 physician fee schedule each year because the CPT revises and deletes some codes each year. The AMA has proposed that the CPT process be expanded to produce recommendations regarding RVUs for newly coded services, RVUs for services with revised codes, and changes to standing RVUs. Under the AMA proposal, the establishment, review, and adjustment of the RVUs would remain our responsibility, but the CPT process would be expanded to provide a recommended RVU. The AMA, in its proposal, also raised the possibility of including limited license practitioners in the RVU creation activity.

We would carefully consider recommendations from the CPT process regarding new or revised codes with advice, when necessary, from carrier medical directors, before we would use them as interim values. Moreover even if the AMA process were used, it would not constitute the exclusive means for us to receive advice and recommendations on new or revised values. Specialty societies or other groups would, of course, be free to submit their recommendations directly to us and we would carefully consider them. Finally, these interim values would be included in the proposed and final Federal Register notices before they could become standing RVUs. Changes to

standing RVUs would only be implemented through publication of the proposed and final Federal Register notices.

Along with the AMA proposal, we are also considering other means of acquiring recommended RVUs for new and revised services and review of standing RVUs. We could develop new and revised RVUs or review standing RVUs through either of the following processes, or a combination thereof:

- Use of a contractor.
 - Creation of a special Technical Advisory Group of representatives of carriers and physician organizations.
- We request public comment on each of these alternatives for acquiring recommendations for interim RVUs for new and revised codes and for changes to standing RVUs. We would, of course, also consider recommendations with respect to RVUs for new, revised, or existing codes from other sources, including individual specialty societies.

The responsibility for establishing or revising the RVUs clearly rests with the Secretary. We believe, however that it is in the best interests of all parties for the development of new RVUs and the review of existing RVUs to begin with recommendations from physicians, whether these recommendations are made by the AMA, by other entities representing physicians, or by physicians within another context.

e. Implementation of the \$20 million limitation. Section 1848(c)(2)(B)(ii)(II) of the Act requires that adjustments to RVUs that are made as a result of changes in medical practice, coding changes, new data on relative value components, or the addition of new procedures may not cause the amount of expenditures under Part B of the year to differ by more than \$20 million from the expenditures that would have been paid had the adjustments not been made. Therefore, the adjustments must be essentially budget neutral (within a \$20 million tolerance per year), based on the expected expenditures for the year.

The \$20 million threshold applies to changes in aggregate expenditures in comparison with what they otherwise would have been had the adjustment not been made. We do not see this limitation having any practical effect on the initial establishment of relative values for totally new services. Thus, if a new technology is covered for the first time and is estimated to add more than \$20 million of net expenditures based on the predicted volume and proposed relative value to be assigned, we would not need to reduce the relative value for this service and other services to bring the estimated expenditure increase within the \$20 million limitation.

We would include in a proposed Federal Register notice a discussion of the basis for any adjustments we would make to RVUs. The proposed notice also would discuss how the adjustments proposed would satisfy the requirement that the adjustments may not cause the amount of expenditures for physician services for the year to differ by more than \$20 million from the payments that would have been made if the adjustments had not been made. It may be necessary to rescale RVUs for all physician services in order to meet this requirement. If RVUs must be rescaled, the proposed notice would discuss the reasons and the methodology used to comply with the limit.

D. Geographic Adjustment Factors (GAFs)

As previously discussed in section IV. B. on the formula for computing payment amounts, the total RVUs for a service must be adjusted by the GAF. The GAF is equal to a weighted average of the individual adjustment factors or GPCIs for each of the three RVU components—work, practice expense (exclusive of malpractice), referred to hereafter simply as "practice expense," and malpractice.

Section 1848(e) of the Act requires the Secretary to develop GAFs for all physician fee schedule areas. It requires an index to reflect the relative cost of practice expenses other than malpractice compared to the national average; an index to reflect the relative cost of malpractice compared to the national average; and an index to reflect one-quarter of the relative cost of physicians' work compared to the national average. The law does not specify the methodology to be used in developing these GPCIs, instead it leaves the methodology to the discretion of the Secretary.

Components of a GAF were already under development as a result of Public Law 99-509, which required the Secretary to develop an index by December 31, 1989 to measure "justifiable" geographic differences in physicians' costs of furnishing services. As a result of this provision, alternative GPCIs were developed by the joint efforts of the Urban Institute and the Center for Health Economics Research (UI/CHER). See Addendum D for information regarding how to obtain copies of their reports.

Indices were developed that measure the relative differences in the cost of a "market basket" of goods across areas by comparing the area cost to the national average. In this case, the "market basket" consists of the resource

inputs required to operate a private medical practice. The inputs and their average weights across all specialties were obtained from the AMA's Socioeconomic Characteristics of Medical Practice (1987). The input components and their weights follow:

Input component	Percentage of practice costs
Physician Work (Net Income).....	54.2
Employee Wages.....	15.7
Office Rents.....	11.1
Medical Equipment, Supplies, and "Other" Expenses.....	13.4
Malpractice Insurance.....	5.6
	100.0

Once the components and their weights were determined, a data source had to be found to measure the cost of each of the components in a given area compared to the national average. Because it would be prohibitively expensive to collect the detailed locality level data needed, data sources were limited to readily available already existing sources. Proxies were selected for each component as follows:

- **Physician work**—The average hourly earnings of workers, based on a 20 percent sample of 1980 census data, in professional specialty occupations (for example, teachers and engineers) with 5 or more years of college. Adjustments were made to produce a standard occupational mix in each area. The actual reported earnings of physicians were not used to adjust geographical differences in fees because these fees are, in large part, the determinants of the earnings, that is, using physician earnings would be "circular."

- **Employee wages**—Wages of clerical workers, registered nurses, licensed practical nurses, and health technicians, were also based on a 20 percent sample of 1980 census data.

- **Rents**—Apartment rental data produced annually by the U.S. Department of Housing and Urban Development were used because there were insufficient data on commercial rents.

- **Malpractice**—Premiums (1985 through 1986) for a "claims made" policy (that is, a policy that covers malpractice claims during the covered period) providing \$100,000/\$300,000 of coverage were used. Adjustments were made to incorporate the costs of \$1 million/\$3 million coverage and mandatory patient compensation fund requirements. In States with differential premiums among areas, the rate applicable in each area was used. Data were collected on

premiums for physicians in three risk classes: Low-risk (general practitioners who do not do surgery), moderate-risk (general surgeons), and high-risk (orthopedic surgeons). A "Medicare-weighted" risk group premium was created according to the share of Medicare spending accounted for by each risk class. The malpractice GPCI values in this proposed rule reflect differences from the values published in the model fee schedule because (1) a technical "mapping" error has been corrected; (2) \$1 million/\$3 million limits in coverage was substituted for \$100,000/\$300,000 coverage used in the model fee schedule; and (3) the effect of mandatory patient compensation fund requirements in Kansas, Pennsylvania, and Wisconsin was recognized.

- **Medical equipment, supplies, and "other" expenses**—UI/CHER assumed that this component is represented by a national market and costs do not vary appreciably among areas. This component's index is 1 for all areas to indicate no variation from the national average.

The areas selected for measurement purposes were the Metropolitan Statistical Areas (MSAs). Non-MSA areas within a State were aggregated into one rural area. MSAs satisfied the criteria of (1) homogeneity in input prices within the area, and (2) large enough size so that market areas are self-contained to minimize border crossing; that is, physicians would not move their offices a few miles to secure higher payment and patients would tend to receive services within their area. Sections 1848(e) and (j)(2) of the Act require, however, that geographic adjustments be made according to Medicare payment localities (see "Locality" discussion in section V. B.). Where localities crossed MSA boundaries, MSA indices were converted to Medicare locality indices by population weight.

As mentioned earlier, for fee schedule computation, section 1848(e) of the Act requires a GAF that reflects three separate components as follows: Work, practice expense, and malpractice expense. In addition to the overall GPICs by locality already described, UI/CHER computed the three separate GPCI values for each locality. Using the indices as developed by UI/CHER for the locality of Birmingham, Alabama, as an example, the components as required by section 1848(e) must be computed as follows:

INDICES

Work	Wages	Rents	Other practice expenses	Malpractice
0.924	0.947	0.761	1.000	0.824

- **Work**—As specified in section 1848(e)(1)(A)(iii) of the Act, the work index value must reflect one-fourth of the difference between the relative value of physicians' work effort in a particular locality and the national average. (The index is constructed so that a value of 1 represents the national average.)

$$\text{Work} = 1 - [(1 - 0.924)(.25)] = (.75)(1) + (.25)(.924) = .981$$

- **Practice expense exclusive of malpractice**—This would mean combining the values of wages, rents, and other expenses (including medical equipment and supplies) and dividing by their total national weight.

Practice Expense =

$$[(.157)(.947) + (.111)(.761) + (.134)(1)] / (.157 + .111 + .134) = .913$$

- **Malpractice**—This is simply the malpractice index (0.824).

The GPCI components for purposes of determining payments under the fee schedule for the locality of Birmingham, Alabama would look like this:

Work	Practice expense	Malpractice
0.981	0.913	0.824

A list of the GPICs for all current Medicare localities in the form required by section 1848(e) of the Act can be found at Addendum C. Two sets of GPCI values require an explanation. First, since there were not data available to measure the cost of practice in the Virgin Islands, it was assigned the national average of 1.000 for each GPCI component. Second, the GPCI values listed for carrier 10240 (Travelers, Minnesota) are for all of the physicians in the area of Minnesota serviced by Travelers, including those at the Mayo Clinic. Under the reasonable charge system, customary and prevailing charges for Mayo Clinic physicians were calculated separately from other physicians in the area. Since the intent

of the fee schedule is to vary payment according to geographic, not provider-specific, differences in resource costs, fee schedule payments will be the same for Mayo Clinic physicians as for all other physicians in the Travelers' service area. We are also including, for informational purposes, a list of Statewide GPCIs for those interested in the possibility of establishing Statewide localities (Addendum C, table 2). Some changes may be made in the malpractice index if better and more recent data and additional information on State malpractice insurance requirements become available before publication of the final rule. We are not likely to make changes in the work and practice expense indices until after the 1990 census data become available some time in 1993. Given the time that it will take to analyze the census data and compute revised GPCI values, we do not expect any major revisions until 1995, the fourth year under the fee schedule. This timing would be consistent with the statutory requirement (described in more detail below) that the GPCIs be reviewed at least every 3 years.

The PPRC is required to report to Congress by July 1, 1991 on the appropriateness of existing geographic localities and on a number of GPCI issues, including the extent to which existing GPCI indices accurately reflect practice costs and malpractice costs in rural areas. In addition, the UI is currently doing an analysis of the locality issue for us.

As explained earlier in the discussion on computing payment amounts, the national level RVUs for each component—work, practice expense, malpractice—must be multiplied by the respective locality level GPCI and summed to arrive at a total GAF-adjusted relative value for a service. This total must be multiplied by the national CF to arrive at a fee schedule amount for each service within each locality.

In summary, the GAF to be used in the physician fee schedule is based on the research performed by UI/CHER. The GAF defined by section 1848(e) of the Act uses separate geographic indices for work, practice costs, and malpractice costs. The geographic work index and the geographic malpractice index are derived by measuring the variation of costs in fee schedule areas from the national average for these factors based on the data described above. The practice expense index is derived by weighting and combining the fee schedule area variations from the national average for employee wages, office rent and equipment, and "other"

expenses. (Section 1848(e)(1)(B) allows the establishment of different practice expense indices for different classes of physicians' services if the application of a single practice expense index would yield inequitable results because of differences in the mix of goods and services comprising practice expenses for the different classes of services. We have no data to justify the establishment of different practice expense indices at this time.) The GAF for a procedure in a locality is constructed by multiplying these component GPCIs for work, practice expense, and malpractice costs by the percent of the relative value for the procedure allocated to work, practice expense, and malpractice expenses, respectively.

The studies of the GPCIs being conducted by us and the PPRC may result in future changes in the GPCIs. In addition, section 4118(c) of Pub. L. 101-508 revised section 1848(e)(1) to require that the Secretary review, and revise if necessary, the GPCIs at least every 3 years. The law also provides that if more than 1 year has elapsed since the last revision, only one-half of the adjustment must be made in the first year. If revisions are made, we would announce the changes in the *Federal Register*, along with an explanation of the reason for the changes—more recent data, a new methodology, locality changes, and so forth. We envision a notice and public comment process for revised GPCI values similar to that described earlier for new and revised RVUs.

E. Conversion Factor (CF)

1. Computation of Budget-Neutral CF

As explained earlier, we must compute the general formula for a payment amount under the fee schedule by multiplying a relative value for a service by a GAF for a fee schedule area by a CF. Thus the CF can be viewed as a multiplier that transforms relative values into payment amounts. The CF is a single national value that must apply to all services paid under the fee schedule. Section 1848(d)(1)(B) of the Act specifies that the CF for the first year of the fee schedule (1992) must be established as follows. First, a base year CF must be computed that is budget neutral relative to 1991 predicted expenditure levels. That is, this base CF must produce total payments under the fee schedule that are the same as total payments that are expected in 1991 under the current payment rules (generally based on the customary, prevailing, and reasonable charge methodology). The CF for 1992 must be

established by updating this base year CF by the annual update factor.

The initial CF must be the value that when applied to the product of the RVUs and GAFs for each procedure, and adjusted with the 1992 historical payment limits, will yield total allowed charges for 1991 (the lesser of the fee schedule and the actual charges) that equate to that year's estimated physician payments. This prediction of 1991 allowed charges takes into account all changes in law and regulations affecting physician payments, including the Public Law 101-508 provisions, such as the overpriced procedure payment reductions and the continuation of reduced payments to new physicians. Section 4106(c) of Public Law 101-508 requires the Secretary to compute the CF for 1992 as if the new physician reductions, including the reductions to be made during the third and fourth years of physician practice (which are effective for years after 1990 and 1991, respectively) had been in effect throughout 1991. Section 4109 of Public Law 101-508 requires the Secretary to subtract from total 1991 RVUs and physician payments any amounts for separate interpretation of electrocardiograms (EKGs) provided in conjunction with a visit or consultation for which payment was also made. (This provision is explained in more detail in section VI. B. of this preamble.)

In addition, section 4105(b)(2) of Public Law 101-508 requires that increases in program payment in 1991 that are made as a result of statutory changes to the primary care payment floor may not be included in the calculation of the budget neutral CF. (The primary care payment floor prohibits the prevailing charge for a primary care service in a locality from falling below a specified percentage of the weighted national average prevailing charge for that service. Section 4105(b)(1) of Public Law 101-508 increased the percentage from 50 to 60.)

This computation of predicted 1991 outlays would also need to take into account the effect of the GAF adjustments in order to produce a budget neutral CF. The GAF adjustments affect budget neutrality because different volumes of services are furnished in each geographic area. As prescribed by the statute, this CF, computed using predicted 1991 expenditures, must be updated by the 1992 annual update factor to establish the initial fee schedule CF. Also, for some services, payments established by this initial CF may be adjusted during the 1992 through 1995 fee schedule transition period, as detailed below.

2. Accounting for Transition Payment Rules in CF Calculation

Under the transition rules, as set forth in section 1848(a)(2) of the Act, the fee schedule would be phased in from calendar years (CYs) 1992 through 1995. The phase-in would begin with computation of an adjusted historical payment basis or amount for each service in each fee schedule area. For non-radiology services, this is defined in section 1848(a)(2)(D)(i) of the Act as the weighted average prevailing charge in the area in CY 1991 with consideration of customary charges below the prevailing and other payment limitations, adjusted by the annual update applicable to CY 1992 payments. (Computation of this update amount is detailed at the end of this CF discussion.) A separate adjusted historical payment basis must be calculated for each procedure in each fee schedule area. Services from July 1, 1989 through June 30, 1990 will be used as the base for calculating the adjusted historical payment basis.

For radiology services, the adjusted historical payment basis is defined as the CY 1991 radiologist fee schedule amount adjusted by the CY 1992 update, except for nuclear medicine services. For all nuclear medicine services, the adjusted historical payment basis would be the amount computed for 1991 using the special rule provided in section 6105(b)(2) of Public Law 101-239. This policy with respect to treatment of nuclear medicine services during the fee schedule transition is based on section 4102(g)(2)(B) of Public Law 101-508.

This historical payment is calculated as an average amount for all physicians in all specialties performing a given service in a locality and would reflect all legislative changes affecting CY 1991 payments. The transition rules for CYs 1992 through 1995 involve comparing this historical payment amount with the new fee schedule amount. The effect of these rules on payments to individual physicians would depend on an individual physician's historical charging patterns. The transition rules consider only the average amount for a service in a fee schedule area, not an individual physician's charges under the

prior payment rules. Under the statutory transition provisions, if the historical payment amount for a service in a fee schedule area is from 85 to 115 percent of the fee schedule amount, maximum payment to all physicians in the fee schedule area would be at that fee schedule amount in CY 1992. However, if the historical payment amount is below 85 percent of the fee schedule amount, the payment amount for the service would be the historical payment amount plus 15 percent of the fee schedule amount. On the other hand, if the historical payment amount is more than 115 percent of the fee schedule amount, the payment amount for CY 1992 would be the historical payment amount minus 15 percent of the fee schedule amount.

These rules would not limit increases or decreases in CY 1992 to 15 percent of the historical payment amount as the short title of section 1848(a)(2)(A) of the Act could be construed to say. Rather, for services subject to the transition provisions, increases and decreases would be limited by a fixed dollar amount (that is, 15 percent of the new fee schedule payment). Thus, increases can be more than 15 percent of the historical payment amount while decreases would always be less than 15 percent. A service would receive a higher percentage increase the farther its historic payment basis is below the fee schedule amount or a lower percentage decrease the farther its historic payment basis is above the fee schedule amount.

Under section 1848(a)(2)(C) of the Act, as amended by section 4102(b) of Public Law 101-508, special transition rules would apply to radiology services in CY 1992. For those services, whether or not they were included in the radiologist fee schedule, the transition provisions limiting reductions in payment amounts would apply if the historical payment amount exceeds 109 percent of the fee schedule amount, rather than the 115 percent applicable to other services. For those radiology services subject to reduction under the transition rules, the amount payable would be equal to the historical payment amount minus 9 percent (rather than 15 percent) of the

fee schedule amount for the service. Otherwise, the transition rules governing increases and decreases in payment amounts for radiology services would be the same as for other services. These rules would provide for a more gradual transition for radiology service payments that would be reduced in order to conform with the new fee schedule.

In addition, we propose to establish special transition rules for the new CPT visit and consultation codes. Special treatment of these codes for purposes of the transition are necessary because we have no historical charge data that could be used for purposes of determining transition payment amount for each newly established visit and consultation code.

However, the CPT is maintaining the current classes of visit and consultation codes (for example, office visits for new patients). Therefore, we could determine transition payment amounts for these new codes by class of visit or consultation code. We could—(1) Compute within each payment area, an adjusted historical payment for each class of visit or consultation code; and (2) Compare this historical payment amount with the estimated average fee schedule payment for the comparable class of visit or consultation code for each payment area. If the historical payment amount is from 85 percent to 115 percent of the estimated average fee schedule payment, payments for all new codes in the class would be made at the fee schedule amount with no transition. Otherwise, payments for all new codes in the class would be subject to a transition in which each new code would be increased or decreased as necessary to satisfy the transition requirements. This possible approach is illustrated as follows:

Transition From Old Payment for Old Visit Codes to Fee Schedule Payment for New Visit Codes by Class of Visits

Step 1: Determine the historical payment amount for each class of visits for each locality by calculating a weighted average allowed charge for the class of visits.

Locality/code		Frequency of visits per code	Sum of visits for the class	Allowed charges per code	Sum of charges for the class	Weighted average for the class
A	1.....	10,000	100,000	\$100,000	\$2,200,000	\$22
	2.....	60,000		1,200,000		
	3.....	30,000		900,000		
B	1.....	30,000	100,000	300,000	1,800,000	18
	2.....	60,000		1,200,000		
	3.....	10,000		300,000		

Step 2: Determine the weighted average fee schedule amount for the

class of services using the distributions of old codes within the locality.

Locality/code		Frequency of visits per code	Sum of visits for the class	Fee schedule payment per code	Fee schedule payment for the class	Weighted average for the class
A	1	10,000	100,000	\$12.50	\$2,750,000	\$27.50
	2	60,000		25.00		
	3	30,000		37.50		
B	1	30,000	100,000	12.50	2,250,000	22.50
	2	60,000		25.00		
	3	10,000		37.50		

Step 3: Determine the transition tolerances by taking 85 percent and 115 percent of the weighted average fee schedule amount for the class of services.

Locality	Weighted average fee schedule amount	0.85 fee schedule amount	1.15 fee schedule amount
A	\$27.50	\$23.38	\$31.63
B	22.50	19.13	5.88

for the weighted average fee schedule amount to determine if the tolerances are exceeded.

Locality	Wghtd average allowed charge for class of visits	.85 fee schedule amount	1.15 fee schedule amount
A	\$22.00	\$23.38	\$31.63
B	18.00	19.13	25.88

transition rules apply to all visit codes in the class.

Step 5: Calculate the first year's transitional weighted average payment amount for the class of codes by adding 15 percent of the weighted average fee schedule amount for the class of codes to the historic weighted average allowed charge for the class of codes.

Step 4: Compare the weighted average allowed charge for the class of services (from step 2) to the transition tolerances

In both cases, the weighted average allowed charge for the class of visits is below 85 percent of the fee schedule amount for the class of visits and so

Locality	Weighted average fee schedule payment for class	Weighted average historic payment amount for class	15 percent of weighted average fee schedule payment	First year transitional weighted average payment amount for class
A	\$27.50	\$22.00	\$4.13	\$26.13
B	22.50	18.00	3.38	21.38

Step 6: Calculate the first year's transition adjustment factor to be applied to each visit code in the class by dividing the first year's transitional weighted average fee schedule amount for the class of codes by the weighted average fee schedule amount for the class of codes.

Locality	Weighted average fee schedule payment for class of codes	First year transition weighted average payment for class	First year transition adjustment factor
A	\$27.50	\$26.13	.957
B	22.50	21.38	.950

Step 7: Calculate the first year transition amount for each new code by multiplying the fee schedule amount for each new code by the first year's transition adjustment factor.

Locality/code	Fee schedule payment per code	Adjustment factor	First year transition fee schedule amount
A	1 \$12.50	.957	\$11.88
	2 25.00	.957	23.75
	3 37.50	.957	35.63
B	1 12.50	.950	11.88
	2 25.00	.950	23.75
	3 37.50	.950	35.63

An alternative approach in which we would establish a one-for-one mapping between the old codes and the new codes is illustrated as follows:

Step 1: Compare the historic payment amount for the old code to the transition tolerances for the fee schedule amount for the new code.

Locality/code		Historic payment amount old code	Fee schedule amount new code	.85 of fee schedule amount	1.15 of fee schedule amount
A	1.....	\$10	\$12.50	\$10.63	\$14.38
	2.....	20	25.00	21.25	28.75
	3.....	30	37.50	31.88	43.13
B	1.....	10	12.50	10.63	14.38
	2.....	20	25.00	21.25	28.75
	3.....	30	37.50	31.88	43.13

Step 2: Calculate first year transition amounts for each code.

Locality/code		Historic payment amount old code	Fee schedule amount new code	.15 of fee schedule amount	Historic payment plus .15 fee schedule amount
A	1.....	\$10	\$12.50	\$1.88	\$11.88
	2.....	20	25.00	3.75	23.75
	3.....	30	37.50	5.63	35.63
B	1.....	10	12.50	1.88	11.88
	2.....	20	25.00	3.75	23.75
	3.....	30	37.50	5.63	35.63

Rules for the transition during CYs 1993 through 1995 are set forth in section 1848(a)(2)(B) of the Act. During those years, payment amounts for services subject to the transition provisions in CY 1992 would be brought closer to the fee schedule amount through application of a blended formula as follows:

- In CY 1993, payment would equal 75 percent of the amount determined for CY 1992 adjusted by the update for CY 1993, plus 25 percent of the CY 1993 fee schedule amount.

- In CY 1994, payment would equal 67 percent of the amount determined for CY 1993 adjusted by the update for CY 1994, plus 33 percent of the CY 1994 fee schedule amount.

- In CY 1995, payment would equal 50 percent of the amount determined for CY 1994 adjusted by the update for CY 1995, plus 50 percent of the CY 1995 fee schedule amount.

- In CY 1996, payment for all services would be fully based on the fee schedule.

These transition rules are set forth in § 415.40 of the proposed regulations.

Nonphysician practitioners who receive payment computed as a percentage of a physician fee schedule amount would be affected by the transition rules if the physicians in their fee schedule areas performing the same services are affected by the transition rules. In other words, if a nonphysician practitioner would receive a percentage of what a physician would be paid for a given service in a fee schedule area, the nonphysician's payment amount would be computed as a percentage of the

physician payment amount after any applicable transition rules had been applied.

Public Law 101-239 does not specify precisely how the application of the transition rules as described above for CY 1992 is to be reconciled with the budget neutrality requirement for CY 1992. Through an iterative process, we have computed a CF resulting in payment amounts that would be budget neutral with 1991 expenditures and that would meet the statutory transition requirements. We estimate this CF is 6.2 percent lower than a CF computed without regard to the transition provisions. We have not been able to find any way of computing the CF that would both preserve budget neutrality throughout the transition and be consistent with the statutory transition requirements. There is no statutory requirement for the fee schedule to be budget neutral for years after CY 1992.

3. Determining the Initial CF

The statute requires that implementation of the fee schedule be budget neutral in 1992. That is, payment rates must be determined so that outlays under the new system equal the outlays that would have occurred under the old system. The statute does not specifically require budget neutrality in years after 1992.

The statute specifically requires that the budget neutrality determination be made with respect to 1991 outlays. The initial budget neutral CF based on 1991 outlays is updated by the 1992 update

determined under the Medicare Volume Performance Standards (MVPS).

Computation of the budget neutral CF would require predictions for CY 1991 with respect to: (1) Fees for each procedure in each area (adjusted by the GAF), consistent with the application of the transition provisions; and (2) the frequency with which each procedure is performed. These predictions are difficult, given that fee schedule implementation involves not only major changes in Medicare fees, but also simultaneous changes with respect to the uniform definition of services for surgical global fees and medical visits.

These two types of services (surgery and visits) account for more than 70 percent of Medicare payments for physician services. Currently, carrier definitions with respect to the pre-operative, intra-operative, and post-operative procedures included in the global fee vary significantly. When the uniform definition becomes effective there may be many services that are now paid for in global fees (or which are otherwise not now billed) that would be billed separately under the fee schedule. Conversely, services now billed and paid separately in some carrier areas would no longer be separately billable. Likewise, some of the options now under serious consideration for change in visit coding (for example, incorporation of time in visit code definitions) could change the array of visit codes and descriptors available to physicians.

In moving to the physician fee schedule, any significant change or

clarification of the service content of the codes would have major financial implications. In order to simulate the budgetary impacts, there is a need to be able to cross reference the old and new coding of the same service. This process has been termed the "crosswalk." For visits and consultations, the codes would be revised significantly because the current codes do not clearly delineate differences among levels of services and there is wide variation in the way these codes are used in practice. In approaching the problem of the crosswalk, the principal question that must be answered is how visits and consultations would be coded under the new coding structure. That is, how does one map the existing codes to the new code structure?

In addressing this question, we emphasize that the crosswalk is not intended to serve as a blueprint of how services should be coded in the future. Under the fee schedule, visits and consultations must be reported based on the new descriptors. Any attempt to report services based on the crosswalk described here would lead to serious errors since the new code descriptors have undergone significant change. The crosswalk is critical, however, because it would be used in setting the CF, determining practice expense and malpractice components for visits and consultations, and could be used for determining transition payment levels.

The development of the crosswalk is complex and, of necessity, involves making assumptions about a number of variables that simply cannot be verified at this time. The assumptions we have made are described below. We believe they are valid but recognize that different assumptions could also be valid, and we welcome comments on this subject.

In constructing the crosswalk for office visits, hospital visits, and initial consultations, we used four major sources of information:

(1) Data from the AMA/HCFA coding pilot. The field portion of this study provides the only source of data in which physicians coded actual visits using both current and new codes. This approach provides the information we need, but the data are limited because the physicians in the sample may be unrepresentative and the response rate has been only about 50 percent;

(2) Harvard data. In Phase II of the Harvard study, physicians were asked to use existing CPT codes to code a limited number of vignettes in addition to providing their estimates of time and work involved in performing the service represented by the vignette. This approach provides times for current CPT

codes that can be compared to the "typical" times defined in the new codes, which is an indirect estimate of future coding practices. These data are of limited value because the number of vignettes studied in this way is small, and they are adequate only for established patient office visits and subsequent hospital visits;

(3) The National Ambulatory Medical Care Survey (NAMCS). Each encounter reported on the survey includes the face-to-face time spent with the physician. Thus, NAMCS can be used to predict the frequency distribution of codes under the new system based on the frequency distribution of the visit lengths reported in the survey. However, the data are of limited value because they do not reflect the many other factors in addition to face-to-face time, which determine the appropriate code level; and

(4) Analysis of the content descriptors in the current and the new codes. This approach seeks to identify the parallels in definitions in the current and the new codes. Given that one of the major reasons for the new system is that the old system is imprecise and not uniformly applied, this approach has obvious limitations.

We developed our assumptions starting from a one-to-one crosswalk from old codes to new codes. This exact crosswalk is potentially possible for new patient office visits, initial hospital visits, and initial consultations, if the number of new codes is the same as the number of old codes. For the established patient office visits and subsequent hospital care, it is necessary to condense a larger number of old codes into a smaller number of new codes in order to reach this starting point. We then examined all available data sources. In general, we placed greatest reliance on our analysis of the content descriptors and on data from the field study, less on the Hsiao data, and least on the NAMCS data. The crosswalk we used for this proposed rule follows:

Old code*	Thousands of bills	New code
New Office:		
90000.....	575	ON005
90010.....	1706	ON007
90015.....	2719	ON009
90017.....	1046	ON011
90020.....	3334	ON011 (70%), ON013 (30%)
Established Office:		
90030.....	2403	OE015
90040.....	12198	OE017
90050.....	47162	OE019
90060.....	47611	OE019
90070.....	9873	OE021
90080.....	4367	OE023

Old code*	Thousands of bills	New code
Initial Hospital:		
90200.....	511	IH110
90215.....	1890	IH113
90220.....	5800	IH113 (50%), IH115 (50%)
Subsequent Hospital:		
90240.....	7021	SH200
90250.....	24842	SH200 (80%), SH210 (20%)
90260.....	31974	SH200 (50%), SH210 (50%)
90270.....	7607	SH210
90280.....	2567	SH215
Initial Consultation:		
90600.....	1655	IC299
90605.....	1044	IC300
90610.....	1254	IC310
90620.....	5659	IC320
90630.....	1423	IC330
Subsequent Consultation:		
90640.....	243	FC400
90641.....	527	FC410
90642.....	978	FC410
90643.....	382	FC415

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The crosswalk we used is quite consistent with how physicians actually coded these services in the field study, in which physicians coded visits using both the current and the new definitions. We are, however, continuing to examine the issue of the distribution of codes to use for crosswalk purposes and we specifically invite comments on this issue.

In addition, as discussed in more detail later, there would be simultaneous changes in payment conventions and billing rules for a number of items such as multiple surgeries, co-surgeons, and bilateral surgery. Application of uniform payment policies presents two problems in projecting volumes. First, billings for these "modified" services have been inconsistently reported in the past. Second, the reduction in payment for surgeries may lead physicians to bill for services furnished but not now billed for or may encourage some physicians to bill for additional services, for example, to serve as assistants at surgery for one another.

Overall, implementation of the physician fee schedule would be a massive change in Medicare payment for physicians' services and clearly the most fundamental change in part B since the enactment of the Medicare program in 1965. Despite this massive change, the statute requires that implementation of the fee schedule be budget neutral in 1992. The setting of the 1992 CF is particularly important not only because of the statutory budget neutral requirement, but also because it serves

as the basis for all future updates in payment. Moreover, the statute does not provide any authority to rebase the CF in subsequent years, and as is noted elsewhere in this preamble, MVPS is not a timely nor an adequate substitute for our need to estimate anticipated volume of services as accurately as possible in setting the CF.

We would further note that anticipating the volume and mix of services was also a problem when the hospital prospective payment system (PPS) was implemented. The diagnosis-related group (DRG) case mix index for the first year of the new system increased by 9 percent. Only a small fraction of the change was due to an actual change in case mix. The balance was attributable to changes in coding practices. The physician fee schedule is significantly more complex given the number of physicians versus the number of hospitals (500,000 versus 6,000), the number of codes involved (475 DRG codes versus 7,000 CPT codes), the beneficiary impact under the fee schedule, and the multitude of ancillary policies and payment issues associated with the physician fee schedule. Another major difference is that hospitals are paid a bundled payment while physicians are paid a separate fee for each individual service, increasing the opportunity for increased volume. Thus, the possibility of a response to the physician fee schedule of significant magnitude must be taken into account along with other factors in predicting the initial volume of services, given that some physicians will face changes in payments per procedure under the new fee schedule.

More specifically, physicians and beneficiaries could respond to the implementation of the fee schedule in the following ways:

- Physicians could appropriately bill under our proposed new definitions of services and associated payment conventions for services for which they do not currently bill.
- Beneficiaries could seek additional services because of lower out-of-pocket costs.
- Some physicians could bill for a higher level of services, particularly visits, or furnish more concurrent care, consultations, assistants at surgery, and diagnostic tests under the fee schedule.

It has been suggested by some physician groups that we are expecting that physicians would respond to losses under the fee schedule by increasing the volume of services furnished by 50 percent and that we would reduce the CF by the same percent. This is an exaggeration of the magnitude of the adjustment, as discussed elsewhere in

this preamble. However, as noted above, we believe changes would occur on the part of both physicians and beneficiaries and could be due to changes in definitions of service, changes in payment levels, or changes in out-of-pocket costs. Whatever the source, we do expect there to be a volume response to the set of changes that would occur with implementation of the fee schedule. Indeed, in setting an initial budget-neutral CF and predicting frequencies of services, it is not necessary to determine a specific cause of a change in volume. It is only necessary for us to judge that a response is anticipated and incorporate this judgment in fulfilling the statutory budget-neutral requirement. In its 1991 annual report to Congress, the PPRC reviewed the literature on behavioral adjustments, and concluded that the results of several time-series studies, including one by the PPRC staff, suggest that the volume of services is affected by fee changes.

The fourth factor in the MVPS incorporates changes in law or regulations that affect the baseline rate of increase. In setting the MVPS for FY 1990 and FY 1991, we used actuarial estimates of the savings to be achieved from the provisions of Public Law 101-239 and Public Law 101-508. Estimates of the savings provisions included a behavioral adjustment. (This may lead to higher fee increases in the future.) If we used savings figures without a behavioral adjustment, the MVPS for those years would have been substantially lower.

In predicting services and frequencies for CY 1991 in order to compute the CF in a manner consistent with the budget neutrality requirement, we had to account for the changes due to factors such as physician use of new uniform service definitions and associated payment rules as well as for changes in the volume of services resulting from changes in fees.

While we have done our best to predict frequencies of services under the standard definitions, using the best available data, we believe that historical experience in the Medicare program shows that it is also necessary to incorporate estimates of aggregate volume and intensity increases resulting from changes in pricing policies to better predict future program outlays. If a failure to account for these increases resulted in a CF set too high, this would be contrary to Congressional intent under Public Law 101-239. It would also mean that the part B trust fund outlays would be larger than anticipated. This would not only increase the overall Federal budget deficit, but could also

create pressure on Congress to increase the part B premium above the rates currently specified in Public Law 101-508 in order to minimize the impact on the budget deficit.

Using the annual update process (linked to the MVPS described below) to correct for a CF set too high due to estimation errors is not a good solution for several reasons. First, under the default provision, we are severely limited as to the amount the update can be reduced if the MVPS is exceeded. The maximum reductions in the update is 2 percentage points for 1992 and 1993, 2.5 percentage points for 1994 and 1995, and 3 percentage points for 1996 and thereafter. Therefore, if we set the 1992 CF 10 percent too high, the maximum reduction in the 1994 update under the default provision would be 2.5 percentage points. Second, even if our projections in setting the 1992 CF were underestimated by only 2 percent so that we could adjust the 1994 update by the full amount of the excess, there would still be a permanent loss to the trust funds of \$1.6 billion for just CY 1992 and 1993. Third, and perhaps most significantly, the default MVPS does not correct for the increase in the base that occurs if we underestimate the aggregate volume and mix of services in setting the initial CF. This is because the MVPS is a "rolling standard" with the base changing each year. Thus, even if we adjust the 1994 update as indicated above, the resulting higher expenditures in FY 1992 and FY 1993 would serve as the base for the FY 1993 and FY 1994 standards, respectively.

Fourth, if we underestimate the aggregate volume and mix of services, not only would the base increase to which the default MVPS is applied, but also the default MVPS and the Medicare physician spending baseline would increase. This occurs because the statutory formula for the MVPS is based on several factors including an aggregate volume and intensity factor. The statute specifies that the default include the average historical aggregate volume and intensity increase for a particular 5-year period (that is, the 5 FYs ending with the preceding FY). Thus, if we fail to make a behavioral adjustment in FY 1992 and a response occurs, actual expenditures in FY 1992 would be higher than estimated. Those higher expenditures would be reflected in a higher volume and intensity factor for the default MVPS for each of the fiscal years in which FY 1992 is included in the default MVPS calculation. These higher MVPS defaults would drive the physician spending baseline up from

that established based on the initial estimate of the CY 1992 CF.

For these reasons, our calculation of the CF for CY 1992 must take into account expected aggregate changes in the volume and mix of services as a result of responses to implementation of the fee schedule and we cannot completely rely on the MVPS to correct the problem.

We have refined our thinking about applying adjustments for behavioral changes. In the past both the Congressional Budget Office (CBO) and we have assumed that changes occur to offset about half of the savings that would otherwise have been achieved by reductions in fees.

The behavioral effect for the physician fee schedule is more complex, however, because we must predict responses to both increases and decreases in payments for various services, standardization of coding and other policies, etc. The same physician may experience increases in fees for some services and decreases in fees for other services. Therefore, we believe that it is appropriate to apply behavioral adjustments to the net change in Medicare revenue of a physician practice. The information on physician mix of service needed to estimate behavioral effects using this approach has been derived through analysis of the BMAD provider file.

Another issue is whether physicians would reduce, increase, or not change the volume of services furnished in response to increases in their fees and Medicare revenue. On the one hand, physicians might be more willing to supply services as the Medicare fee increases. Alternatively, some physicians might respond to increases in Medicare fees by furnishing fewer services to Medicare beneficiaries or by spending more time with the same number of Medicare patients. We have much less experience with observing behavioral responses to increases in fees. We have considered the issue of the behavior of "winning" and "losing" physicians for purposes of determining the CF for this proposed rule. Only one study, which was conducted in the 1970s and was limited to one State, has addressed the issue of behavioral responses to increases in fees. Based on this lack of data, it is our judgment that no adjustment would be appropriate for "winning" physicians. The CF developed for this proposed rule reflects this conclusion.

Another issue in predicting outlays under the new system is whether physicians with charges below the new fee schedule payment amounts (or transition payment amounts) would

raise their actual charges up to the maximum payment allowed under the new system. Under section 1848(a)(1) of the Act, Medicare payments to physicians must be the lesser of the actual charge or the fee schedule amount. In computing the CF for this proposed rule, we assumed that all submitted charges would be at or above the fee schedule amount. Although a relatively small number of physicians presently submit bills to Medicare carriers for amounts less than the prevailing charge for the locality, we believe that the fee schedule amounts will be sufficiently well known that virtually all physicians would conform their charge structures to the fee schedule amounts.

With respect to "losing" physicians, that is, physicians predicted to experience a net loss of Medicare revenues, we have assumed volume and intensity changes sufficient to offset 50 percent of the Medicare revenues that would otherwise occur. This means that if a physician practice with Medicare revenues of \$100,000 would have these revenues reduced under the fee schedule to \$90,000, we are assuming that 50 percent of the loss or \$5,000 would be made up for through volume and intensity increases. We emphasize that this is not a 50 percent increase in volume.

This adjustment has the effect of lowering average payments in CY 1992 by 3 percent. Because the law provides for budget neutrality in CY 1992 to be established only through the CF, this 3 percent reduction in average fees would be achieved through a 10.5 percent reduction in the CF. This is because of the so-called "leveraging" effect. That is, because the statute requires that the CF for 1992 be budget neutral, the effect of the behavioral adjustment can only be applied to the CF. The CF would bear all the "weight" of the behavioral adjustment; thus, the 3 percent behavioral adjustment that would apply to all fees in 1992 would be leveraged to a 10.5 percent CF adjustment for 1992.

As noted previously, the statute requires budget neutrality only in 1992. The statute does not specifically require budget neutrality in the other years of the transition. Had we been given the authority to apply budget neutrality throughout the transition and make behavioral adjustments for fee changes in each year of the transition, the 1996 CF would be reduced by approximately the same 10.5 percent we are projecting for the CF adjustment for behavior in 1992 only (resulting from the "leveraging" effect).

Further, the PPRC in its 1991 annual report to the Congress recommends a 1

percent reduction in Medicare fees (3.0 percent reduction in the CF) to account for behavioral adjustments to the fee schedule. This recommendation is roughly consistent with a model that assumes 50 percent of net losses would be offset by increases in volume and that 35 percent of net gains would be offset by reductions in volume. While we agree with the 50 percent offset for "losing" physicians, as noted earlier, we do not think there is sufficient evidence to support a volume offset for "winning" physicians.

In summary, the statute requires the Secretary to determine a CF that is budget-neutral to the Medicare outlays that would otherwise have been paid without the fee schedule in 1992. The scope and magnitude of the changes in payments, limiting charges, standardized coding and other policy changes makes the task of predicting frequencies for individual services all the more difficult. Experience suggests that there would be responses to the multitude of changes that are occurring. We do not believe that the MVPS is an adequate mechanism to address volume responses. It is our judgment that to fulfill the statutory budget neutrality requirement, an aggregate adjustment to the CF would need to be made to account for anticipated changes. Taking all these factors into account, we propose a conversion factor of \$26.873. This does not reflect any update for 1992.

4. Future Updates of CF

Beginning in CY 1991, section 1848(d)(2) of the Act requires the Secretary to recommend to Congress by April 15 of each year an update to the fee schedule CF for the following calendar year. In making the recommendation, the Secretary is required to consider the increase in the MEI (a measurement of inflation in the cost of running a private medical practice), the percent increase in aggregate expenditures for physicians' services in the first preceding fiscal year (FY) over the second preceding FY compared to the performance standard rate of increase set for the first preceding FY, access to services, changes in volume and intensity of services, and other factors he considers appropriate. (The performance standard rate of increase was described earlier as a central feature of the MVPS.)

Congress may choose to enact the Secretary's recommendation, enact some other update amount, or not act at all. If Congress does not act, the annual update is set according to a "default" mechanism in the law. The law states

that the update must equal the "appropriate update index" adjusted by the amount actual expenditures for the first FY preceding the recommendations were greater or less than the performance standard rate of increase for that FY (referred to below as the "performance adjustment").

Section 1848(d)(3)(A)(ii) defines the "appropriate update index" as the index that was in effect in 1989 for a category of services. In 1989, physicians' services, services and supplies incident to physicians' services, and the services of certified registered nurse anesthetists and certified nurse midwives were subject to the MEI. Other services, such as the services of other nonphysician practitioners (See section IV. A. 3., Services of Nonphysician Practitioners.) and technical components of diagnostic tests billed separately by suppliers were subject to the IIC in 1989.

Many of these services currently updated by the IIC, such as diagnostic tests billed by suppliers and the services of some nonphysician practitioners (independently practicing PTs and OTs) are specifically covered under the fee schedule under the broader definition of physicians' services in section 1848(j)(3) of the Act. Having differential updates for services covered under the fee schedule based on the type of practitioner furnishing the services would be confusing and inconsistent with other objectives of the fee schedule, including the elimination of specialty differentials. It would result in having two fee schedules in an area with different payment amounts for physicians and suppliers furnishing the same service. We believe that the same index should be used to update all services covered under the fee schedule, and we are proposing that it be the MEI (§ 415.30).

Payments for the services of the remaining nonphysician practitioners (PAs, NPs, CNSs, psychologists, and CSWs) are currently limited by the prevailing charges of physicians and although not directly covered under the fee schedule, will be limited by a percentage of the physician fee schedule amount beginning in 1992. Thus, while they are presently updated by the IIC, in reality they are ultimately controlled by the MEI. The IIC is not mandated by statute. It was implemented through regulations (§ 405.509) to limit annual increases in reasonable charge payments for nonphysician services as we believed that section 1842(b)(3)(K) limited the application of the MEI to physicians' services. With the broader definition of physicians' services in section 1848(j)(3), and with

nonphysician practitioners' services tied to the physician fee schedule and therefore the MEI, we also propose to recognize the MEI as the "appropriate index" for updating payment levels for the services of these practitioners since they are tied to the fee schedule.

Under the default mechanism, the update would equal the MEI plus or minus the performance adjustment. Since there are different performance standard rates of increase for different categories of services, the performance adjustment could yield different CF updates. For FY 1991, there were different rates for surgery and nonsurgery. For example, given that the performance standard rate of increase for FY 1990 is 9.1 percent, assume that actual expenditures for FY 1990 increase by 10.1 percent over FY 1989. If Congress does not set the update, the default mechanism would take effect. For example, if the MEI for CY 1992 were 4 percent, the CF update for CY 1992 would be 3 percent, because actual expenditures for FY 1990 exceeded the performance standard by 1 percentage point. Conversely, if the actual expenditures for FY 1990 increased by 8.1 percent over FY 1989, the CF update would be 5 percent (4+1) because actual expenditures were 1 percentage point less than the performance standard. The law limits the downward adjustment to 2 percentage points for CYs 1992 and 1993, 2.5 percentage points for CYs 1994 and 1995, and 3 percentage points thereafter. There is no limit on the upward adjustment.

F. Data Used to Develop the Fee Schedule

1. Sources of Data

In this proposed rule, national level claims data were used to: (1) Compute RVUs for practice expense and malpractice costs, (2) convert Harvard relative work values into units on a common scale, with practice expense and malpractice RVUs, and (3) compute the CF, with adjustments for the 1992 through 1995 transition rules. We considered two possible sources of national data containing procedure level data we currently collected for completing these fee schedule development tasks: (1) The National Claims History (NCH) and (2) BMAD files (Procedure, Provider, and Beneficiary files). Both the NCH and BMAD are routine data-gathering systems that provide detailed data for Medicare beneficiaries (except those enrolled in risk HMOs) and were potentially useful for computing both national average charges and the CF.

The BMAD files are submitted annually by the carriers whereas NCH is a repository for all claims reported by carriers through nine Common Working File (CWF) host sites on a daily flow basis. The CWF process was not fully implemented nationwide until 1991; however, calendar year 1990 NCH data were available for 35 of the 56 carriers. The most current BMAD files available for all carriers except the Rhode Island carrier were from 1989. The latest data available for Rhode Island were from the 1988 BMAD files. BMAD 1990 data will not be available until late fall of 1991.

Because we wanted to use the most current and complete data available, we primarily used the 1989 BMAD files for calculating the national CF and for calculating the practice expense and malpractice RVUs.

Extensive efforts were made to validate both the NCH and BMAD files. The BMAD files, for a selected number of carriers, were compared with 100 percent claims data from NCH and two other independent data sources. In our data validation effort, CFs were calculated using Harvard's Phase I RVUs and the total allowed charges for each of the various data sources. Each of the CFs derived from the independent data was compared with the BMAD/NCH data-derived CF. This comparison showed that the CFs varied by no more than one percent for most carriers that were studied. Data validation also included the comparison of the allowed charges, allowed services, and the average allowed charge for 50 selected HCPCS codes. Further details of this validation process are provided in the next section. After analyzing the results of these data comparisons, we believe that BMAD and NCH are reliable sources of data for establishing the fee schedule.

One concern using 1989 BMAD and 1990 NCH data is that we are required to compute a CF that would provide budget neutral outlays for 1991. Therefore we updated these data to: (1) Reflect 1991 payment rules, as discussed later, and (2) account for estimated changes between 1989 and 1991 in the mix of services furnished. (This second adjustment would not significantly affect our estimates of average charges per service upon which the practice expense and malpractice RVUs are based, but it could affect the computation of the budget neutral CF. For example, a CF computed using the 1989 service mix could be too high if services with low relative values (for example, visits) increase more rapidly than services with high relative values

(for example, major surgical procedures) during this time period.)

2. Description of Data Files

a. Part B Medicare annual data (BMAD). The BMAD files are annual data submissions by the Medicare Part B carriers. The BMAD consist of four files—three utilization files (Procedure, Provider and Beneficiary files) and one pricing file (Prevailing/Pricing file). The utilization files contain data for services furnished in the calendar year and processed through March 31 of the following year. The pricing file contains prevailing and pricing screens for the current year in which the file is submitted.

(1) Procedure file. The Procedure file is an aggregate file representing nearly 100 percent of part B claims. It provides frequency of allowed services and allowed charges for each procedure code by carrier, locality, specialty, place of service, and type of service. We used the 1989 Procedure file and made adjustments to reflect 1991 program payments. This file was used to calculate the relative values for practice expense and malpractice costs and to convert Harvard relative work values into units on a common scale with practice expense and malpractice RVUs.

(2) Provider file. The Provider file provides detailed claims data for a 5 percent sample of physicians' and suppliers' profiling identification (ID) numbers. For each provider ID number there is detailed line item data for each service furnished by that provider in the calendar year. These line items include procedure code, frequency, charge amounts, specialty, place of service, type of service, locality, assignment indicator, dates of service, processing indicators, and payment screen indicators. This file was used to compute the CF adjustment attributable to expected behavior offsets.

(3) Beneficiary file. The Beneficiary file provides detailed claims data for a 5 percent sample of beneficiaries using services and submitting at least one claim. The file also contains detailed data for 100 percent of all beneficiaries entitled to Medicare due to end stage renal disease. For each beneficiary ID number, there is detailed line item data for all services furnished to the beneficiary in the calendar year. Each line item includes the beneficiary ID number, provider ID number, procedure code, frequency, charge amounts, specialty, place of service, type of service, locality, assignment indicator, dates of service, processing indicators, and payment screen indicators. This file was used to estimate the impact of standardizing payment policies (for

example, global fees) and impact on beneficiary liability.

(4) Prevailing/Pricing file. The Prevailing/Pricing file contains pricing data generated by the carriers during the reasonable charge update. It contains prevailing charges or fee schedule amounts (whichever is appropriate) for every procedure code in the carriers' pricing files. This file was used to "age" the 1989 Procedure File to reflect 1991 payment rules.

b. National Claims History (NCH). The NCH is a national repository of all Medicare claims processed by our fiscal agents. The NCH was implemented simultaneously with the CWF, a major innovation in the way that Medicare claims are processed. The CWF is a decentralized benefit authorization process in which nine host sites review all claims and authorize payment by the carriers and intermediaries. At the point of payment authorization, all claims data are transmitted to the NCH for use in program evaluation and program development. As of January 1, 1990, 35 of Medicare's 56 carriers were using the CWF. The remainder entered the system at varying dates during 1990. Although the NCH data were not available to us in time to be used in this proposed rule's calculations, we expect to use 1990 NCH data to compute the initial CF for the final rule, supplemented by adjusted 1989 BMAD files for those carriers not using the CWF for the full year to compute the initial CF for the final rule.

3. Data Validation

The BMAD files were validated by comparing the BMAD Procedure file data for selected carriers to the most recently available (that is, 1987 or 1988) 100 percent Medicare claims data collected by independent sources. There were 10 carriers for which data were available for comparison, representing approximately 21 percent of Medicare allowed charges. The NCH was one of the sources used in the comparison. The other two sources of data were files that were brought in by independent contractors commissioned by us to collect 100 percent Part B data for other analytical studies. Some of these files had to be slightly modified so that they would be analogous to the BMAD files.

The following files were used in the data comparison:

1987—Claims history data for Northern Minnesota, Southern Minnesota, South Carolina, North and South Dakota, Delaware, District of Columbia, and Washington. These data were collected from the carriers by Mandex Incorporated.

1988—Claims history data collected from Pennsylvania by H. K. Research Corporation.

1988—We extracted from the NCH the claims processing data for Maryland and Texas.

Total allowed services, total allowed charges and average allowed charges from BMAD were compared for each carrier with an independent data source. The same variables were compared by specialty, by place of service, and by type of service from the same sources. In addition to aggregate analyses, utilization was compared for 50 selected procedure (HCPCS) codes for each of the data sources. Since one of the major reasons for performing these data comparisons was to determine whether BMAD was accurate enough for calculation of a national CF, CFs were calculated for each carrier using the different data sources. The calculation of the CFs for this comparison was based on Harvard's Phase I RVUs and the GAFs obtained from UI/CHER. The following CFs resulted:

Carrier/carrier number	BMAD file	Independent data source
1987 Data:		
Delaware (00570).....	0.93	0.91
District of Columbia (00580)...	1.04	1.03
Northern Minnesota (00720)...	0.78	0.78
Southern Minnesota (10240)...	0.90	0.89
South Carolina (00880).....	0.90	0.91
North/South Dakota (00820).....	1.02	0.96
Washington (00930).....	0.96	0.97
1988 Data:		
Pennsylvania (00865).....	0.98	0.98
Maryland (00690).....	1.01	1.00
Texas (00900).....	1.11	1.10

After comparing the CFs noted above and making other data comparisons for both aggregate data and selected procedure (HCPCS) codes between BMAD and the independent data sources, we concluded that, although there were some data reporting differences, overall the data were accurate and reliable.

Some of the problems encountered in these data analyses such as truncated data should not occur when the initial CF is actually calculated for the final rule because it will be based on NCH data that is line item data (by individual service) that will be supplemented with BMAD Beneficiary files, which is also line item data. Here, the data comparison focused mostly on the BMAD Procedure file because it represents virtually 100 percent of total charges and was to serve as the basis

for computing the practice expense and malpractice RVUs.

4. Aging of Data To Reflect 1991 Payment Rules and Expenditures

Because we are required to compute a CF that would provide budget neutral outlays for 1991, the BMAD files have been adjusted to reflect 1991 payment rules. In general this aging process has been accomplished by adjusting 1989 and 1990 prevailing charges for both Public Law 101-239 and Public Law 101-508.

These adjusted prevailing charges were appended to the 1989 BMAD Procedure, Provider and Beneficiary files. These data were compared to the average allowed charge calculated based on the utilization reported in those files. These data were used in conjunction with assumed increases in actual and customary charges to determine allowed charges for 1991.

a. Public Law 101-239 payment provisions requiring data adjustments for 1990. The sections of Public Law 101-239 specified below set forth provisions requiring data adjustments. Accordingly, the adjustments we made follow:

- **Overvalued procedures**—We reduced the prevailing charge for 245 overvalued procedures by the amount equal to one-third of the amount that the procedure was overvalued in each locality but not more than 15 percent (section 6401).

- **Designated specialty**—For certain procedures, we capped the prevailing charge at the prevailing charge level of the specialty most frequently performing the procedure (section 6401).

- **Radiology reduction**—We made a 4 percent reduction in the CFs for radiology services subject to the fee schedule (section 6105).

- **MEI differential updates**—We made the following adjustments:

- 4.2 percent increase for primary care services.
- 0 percent increase for radiology services paid for on a reasonable charge basis (section 6107).
- 0 percent increase for portable x-ray suppliers paid on a fee-for-service basis.
- 0 percent increase for anesthesia services, including CRNA fee schedule services.
- 0 percent increase and possible decrease for overvalued procedures.
- 2 percent increase for all other physician services.

b. Public Law 101-508 payment provisions requiring data adjustments. The sections of Public Law 101-508 specified below set forth additional provisions requiring data adjustments.

Accordingly, we made the following adjustments:

- **Overvalued procedures**—Effective January 1, 1991, we again reduced payments for the same procedures reduced under Public Law 101-239 by the same amount as they were reduced in 1990 (section 4101).

- **Primary care floor**—Effective January 1, 1991, we raised the primary care floor from 50 percent to 60 percent of the national weighted average. The statute requires that the CF be determined without regard to this provision (section 4105).

- **Anesthesiology reduction**—Effective January 1, 1991, we reduced anesthesiology CFs by up to 15 percent based on comparisons with adjusted local amounts (section 4103).

- **Radiology reductions**—Effective January 1, 1991, we reduced radiology fee schedule CFs up to 9.5 percent based on comparisons with adjusted local amounts. Also, we reduced all radiology prevailing charges paid on a reasonable charge basis to the fee schedule amount (section 4102).

- **Assistants-at-surgery**—Effective January 1, 1991, we limited payments to physicians used as assistants-at-surgery to 16 percent of the surgical global fee. Also, we may no longer pay for assistants-at-surgery for procedures in which a physician is used as an assistant-at-surgery in fewer than 5 percent of the cases (section 4107).

- **Reduction of 6.5 percent**—Effective January 1, 1991, we reduced prevailing charges for all physician procedures other than the overvalued procedures, radiology, primary care services, anesthesia, pathology and diagnostic test technical components, and certain other specified services by 6.5 percent (section 4101).

- **Pathology services**—Effective January 1, 1991, we reduced prevailing charges for physician pathology services by 7 percent (section 4104). (Independent laboratories that bill for a professional and technical component, in some circumstances, would be an exception to this requirement.)

- **Technical component of diagnostic tests**—Effective January 1, 1991, payment for the technical component of high volume diagnostic tests was capped at the median across all localities (section 4108).

- **Primary care services**—We allowed a 2 percent increase in the prevailing charges for primary care services and 0 percent for all other services (section 4105).

- **Technical components of certain scanning services**—Payments for technical components of magnetic resonance imaging (MRI) services and

computerized axial tomography (CAT) services furnished after December 31, 1990, were reduced by 10 percent (section 4102).

- **Interpretation of EKGs**—Effective January 1, 1992, separate payment for interpretation of an EKG may not be made if payment is made for a visit in which an EKG was performed or ordered to be performed. The statute requires that the CF be determined as if the provision were in effect in 1991 (section 4109).

- **New physicians, PTs, and OTs**—The new physician policy has been expanded to include other practitioners. Payment in the first year of practice must be based on 80 percent of the prevailing charge or fee schedule, 85 percent in the second year, 90 percent in the third year, and 95 percent in the fourth year. (The "first year of practice" is the first full CY during the first 6 months of which the physician, PT, or OT furnishes professional services for which payment may be made under part B plus any portion of the prior calendar year if that prior year does not meet the first 6 months' test. The "second, third, and fourth years of practice" are the first, second, and third CYs following the first year of practice, respectively.) Primary care services or those furnished in a rural HMSA are exempt. The statute requires the CF to be determined as if the provision were fully in effect in 1991.

These files must be further adjusted as follows:

- **Procedure code changes**—Carrier-defined local procedure codes and deleted procedure codes have been crosswalked to established HCPCS codes. Data for new and revised procedure codes (for example, visit codes) have been estimated.

- **Standardization of payment policies**—Data adjustments have been made to allow for standardization of modifiers recognized for payment purposes, global surgery fees, site of service differentials, and limited payment for services and supplies furnished incident to a physician's service.

V. Definitions

A. Defining a Unit of Service

1. Coding of Medical Visit Services

Section 1848(c)(5) of the Act requires the Secretary to establish a uniform procedure coding system for the coding of all physicians' services, including an appropriate coding structure for visits and consultations. As part of the process of establishing a uniform coding system, the Secretary is required to

consult with the PPRC and "other organizations representing physicians."

Section 6102(e)(4) of Public Law 101-239 requires the Secretary to conduct a study of the desirability of including time as a factor in establishing visit codes and report to Congress by not later than July 1, 1991. The report must include the desirability of modifying the number of visits codes, whether use of time would result in greater uniformity than modification of clinical descriptors, and the ability to audit physician time accurately. (Section 4118(d) of Public Law 101-508 removed a restriction previously imposed by Public Law 101-239 that had prohibited the use of time for coding visits and consultations before January 1993.)

In 1983, we announced the requirement that physicians and carriers use the HCPCS to code and bill for physicians' services. The HCPCS has three levels:

Level 1—CPT.

Level 2—Alpha-numeric HCPCS codes.

Level 3—Carrier-unique local codes.

The CPT is a listing of descriptive terms and numeric identifying codes and modifiers for reporting medical services and procedures performed by physicians. The HCPCS includes CPT descriptive terms and numerical identifying codes and modifiers for reporting medical services and procedures and other materials contained in CPT that are copyrighted by the AMA.

We have an agreement with the AMA to use the CPT for coding of physician services. Under that agreement, we are represented by one voting member on the CPT Editorial Panel, the organization that is responsible for establishing the codes and their definitions. Although we use the CPT for coding purposes, we establish the Medicare payment rules with respect to these codes. Services that are not specifically coded in CPT (for example, chiropractor services) are coded in the alphanumeric codes of level 2 HCPCS that we establish and maintain. Services that are not included in either level 1 or level 2 of HCPCS may be coded by carriers using carrier-unique local codes.

Similarly, there are three levels of modifiers for codes. The CPT has modifiers as part of that coding system. We also have additional national HCPCS modifiers that are used for payment, billing, and medical review purposes. Lastly, carriers are permitted to use carrier-unique modifiers for payment and administrative purposes.

There are several major issues pertaining to the use of these codes to generate payment for physician services

under the physician fee schedule. Three of these issues pertain to defining a unit of service:

- How to define visits so that visit codes are used reliably and consistently by all physicians and all carriers.
- Which services would be included in the global surgery fee for a specific procedural code, since the services to be included would determine the RVUs to be associated with the code.
- When and to what extent to permit use of local codes in a national payment system.

A fourth major issue of when to provide a payment differential based on the presence of a modifier is contained in our discussion of adjustments to payments.

a. Current Use of CPT Visit Codes. Under the current system, Medicare spends approximately \$10 billion or one third of total physician dollars on medical visits and consultations. This figure could increase as the fee schedule is phased in, since the Harvard study results have shown cognitive services such as visits generally to have been undervalued relative to other services under the customary, prevailing, and reasonable charge payment methodology. The BMAD files also show that about 13 percent of physician dollars pay for office visits, while another 10 percent are for hospital visits. Smaller sums are spent for specialized visits (5 percent of physician dollars), consultations (4 percent), and nursing home and home patient visits (1 percent).

The CPT currently distinguishes among visit services for six sites of service: office, home, inpatient hospital, emergency department, SNF, and domiciliary care facilities. The CPT also differentiates between new and established patients for several sites; in the other sites, a distinction is made between initial and subsequent visits. Depending on the site of service and new/established or initial/subsequent categories, the CPT contains three to six levels of service for visits. In addition, CPT contains specialized visit codes for several categories of services, including psychiatric, dialysis, ophthalmologic, and critical care visits. Visits are defined separately from consultations.

b. Variation in Coding of Medical Visit Services. There currently is wide variation in the coding of physician visits. This variation must be reduced in order to ensure that payment for visits under the fee schedule is rational and equitable. Much of the variation in coding is due to the very subjective nature of the current CPT visit definitions.

Results of our review of 1989 BMAD files support the view that there is significant variation in the use of the CPT codes for physician visits. For example, one carrier showed 61 percent of its total billings for office visits for established patients under code 90060, "Office and other outpatient medical service, established patient; intermediate service," while another carrier showed only 11 percent of its billings for this same code. Code 90060 is third from the top in an array of 6 levels of visits of increasing complexity.

Similarly, the final report of phase II of the Harvard study revealed that physicians vary in how they code the same service, even when they agree on the work estimates for the service. The Harvard research team asked physicians who were participating in the survey of work to code some of the vignettes as they would code them if they were billing Medicare. The codes that physicians used frequently were often not the same codes that the writers of the vignettes had assigned to the vignettes, but were often adjacent codes.

The most common explanation offered for the variation in the use of visit codes is that the current CPT definitions for these services are not clearly differentiated from one another. In addition, a number of other features of the CPT visit codes and their use have been cited as causes of the wide variation in the way these codes are used in practice.

Separation of the detailed descriptions from the listing of visit codes in the CPT is believed to discourage some physicians from reading the descriptions at all. In addition, many believe that current narrative descriptions of the codes do not clearly delineate differences among levels of service. Further, because the terminology for levels of service (for example, limited or intermediate) is not neutral, it may encourage physicians to upcode. For example, a visit that meets the criteria to be billed as a "limited" service may not be billed as a "limited" service because the physician does not view the service as being "limited" (that is, less than a "standard" or "full" service).

Another difficulty with the use of the current CPT visit codes is that when the transition to the CPT required carriers to map their prior coding system to the new codes, some carriers had fewer levels of service than the CPT (for example, 3 levels vs. 5 or 6) and therefore crosswalked according to other criteria (for example, payment levels). In addition, we have not made

any comprehensive effort to require carriers to tell physicians how to use the different levels of codes properly. Physicians often use only three or fewer levels of service to report their visits (although no three levels are used consistently). Some preprinted "superbills" only list the three most expensive levels of visit codes and therefore discourage use of the least expensive two or three categories. Thus, while a 5- or 6-level coding structure for a given visit service may be in place in the CPT, in practice, not all the levels may be in use and the levels used are subject to varying interpretation.

c. HCFA goals for new visit codes.

Our goal for the development of new visit and consultation codes was that the new codes meet two criteria:

- They should be used reliably and consistently by all physicians and carriers; that is, the same service should be coded the same way by different physicians.

- They should be defined in a way that enables us to properly crosswalk the new codes to the relative values for the Harvard vignettes so valid RVUs for work are assigned to the new codes.

d. Recent studies to support the creation of new visit and consultation codes. Since the model fee schedule was published in the **Federal Register** on September 4, 1990 (55 FR 16378), there have been two studies that have provided information for use in the creation of new visit codes. Phase II of the Harvard study focused much of its effort on a more intensive study of visits and consultations than Phase I. In addition, the PPRC sponsored a consensus process that produced recommendations for new visit codes. These two studies contributed substantially to the development of the proposed new visit codes by the CPT Editorial Panel that were subsequently field tested, as described in detail in section V. A. 1. g.

e. Harvard Study Phase II. In Phase II of its study, Harvard surveyed visits for 15 specialties that had not been surveyed in Phase I and resurveyed 4 specialties. Therefore, in Phases I and II, Harvard had surveyed a total of 31 specialties for a total of 414 visit vignettes. More detail on which specialties estimated the work involved in the vignettes in Phases I and II can be found in the final reports from Harvard. Information regarding how to acquire those reports is contained in Addendum D.

The Harvard study provided work values and time values for all vignettes surveyed and relative values for each CPT visit code by physician specialty. These relative values are contained in

the list of physician work values as Addendum B.

Review of the work values for each CPT visit code by physician specialty indicates that the range of work values by the current CPT codes varies significantly. The information on physician work that was acquired from the Harvard study for these visit vignettes was used by the CPT Editorial Panel in its development of new codes for office visits, hospital visits, and consultations.

f. CPT panel development of new visit codes. The CPT Editorial Panel developed new visit codes for office visits, hospital visits, and consultations at its November 2 through November 4, 1990 meeting. The CPT Editorial Panel carefully considered the recommendations of the PPRC Consensus Panel and the findings from Phase II of the Harvard study in its development of new visit codes. In addition, in developing the new visit codes, the CPT Editorial Panel considered the issues we raised in our discussion of visit codes in the model fee schedule notice (55 FR 36178; September 4, 1990, part IV). These issues included the appropriateness of using time in visit coding, the levels of service, the need for different codes for different sites of service, the definition of consultations versus visits, and the need for different codes for new and established patients.

The proposed CPT codes for office/outpatient visits for new and established patients, initial and subsequent hospital visits, and initial and subsequent consultations are contained in Addendum E.

We have not yet come to a decision regarding the coding of physician visits. Based on our review of research performed by the Harvard team, however, we believe that characteristics of a visit such as duration of the service, condition of the patient, new versus established patient for office visits and initial versus subsequent encounter for hospital visits are related to the physician work in a visit and may be appropriate elements of a coding system for visits.

However, we intend to carefully review the comments we receive on the proposed CPT visit codes, and to examine the results from the pilot test of those proposed codes (discussed more fully in the following section) before we decide how we will establish uniform coding of visits as required by the law.

g. Pilot test of new visit codes. In January of 1991, we initiated a pilot test of the proposed new visit codes jointly with the AMA. The pilot test consisted

of two parts: A reliability test and a field test.

(1) The reliability test. The reliability test was intended to answer the question: "Will different physicians bill the same services using the same codes?" That is, will the codes result in reliable coding?

To test the hypothesis that different physicians would code the same service similarly under the proposed new coding system, we (AMA and HCFA) had representatives of physician specialty societies develop clinical descriptions of typical patient visits. The description of each case included the information that would be available to the physician if he or she performed the services identified in the clinical description. We asked a group of physicians to code the case studies. The participants were then asked to provide feedback on the new codes or any aspect of the study with which they had concern.

In addition, we also replicated the reliability study with carrier medical directors using the same training provided during the AMA meeting.

(2) The field test. A field test of the new codes was conducted as a supplement to the reliability study in order to determine how well the new codes work for coding actual patient visits. It was also intended to help determine whether the variation in coding between carriers would likely be reduced by the new coding system.

The proposed new visit and consultation codes were field tested in the States of California, Kentucky, New York, and South Carolina. Two different carrier areas were selected in California and New York so that we had a total of 6 areas, each served by a different carrier. Sixty-four physicians from each of the 6 areas participated, resulting in the participation of about 384 physicians in total.

We wish to gratefully acknowledge the cooperation and assistance of the medical societies in these States and the AMA in providing field test data for our further analysis of the new visit codes.

The physicians or their office staff participating in the field test were asked to complete a diary log for 40 visits beginning on January 10, 1991. For each visit, they were asked to enter the code they would use under the current CPT system, the new code they would assign to the visit, and whether the payor was Medicare or another payor. All patient identifying information was removed from the log before it was forwarded to the AMA for processing. There was also a summary sheet to be completed by each physician that requested the physician's specialty and asked for

comments on problems or questions that arose in using the new codes.

We have not yet completed our analysis of the information provided by the reliability and field tests. This analysis should be completed by the time we publish the final rule. We plan to use it when we make our decision regarding the visit codes that will be used in the physician fee schedule. We plan to discuss the results of the pilot tests in the preamble of the final rule.

h. Revising the other visit codes. In addition to the office, hospital, and consultation codes described above, the CPT Editorial Panel has developed new draft descriptors for other classes of evaluation and management services that are presently in the CPT. These draft descriptors will be forwarded by the AMA to the members of the CPT Advisory Committee for comment. The CPT Editorial Committee will consider all comments and recommendations and will finalize the new codes for publication in the 1992 edition of the CPT.

The following is a summary of the existing classes of codes and the revisions that are being considered. We invite comments on the direction the CPT Editorial Panel is taking. Comments we receive on these revisions will be shared with the CPT Editorial Panel and considered by them prior to finalizing the codes.

(1) Home medical services (90100-90170). At the present time, there are 4 levels of service for new patients and 5 levels of service for established patients. The Panel reviewed the work values of the surveyed vignettes in the Harvard Study and noted that the range of work across the class is not large. Consequently, they are considering reducing the number of levels for both new and established patients.

(2) SNF, ICF, or long-term care facility medical services (90300-90370). At the present time, there are 3 levels of service for Initial Care and 4 levels of service for Subsequent Care. The Panel reviewed the requirements in the statute and regulations pertaining to NF services and noted that the nature of the physician work in NFs has changed and is, to a large extent, related to the requirements that NFs must conduct comprehensive, accurate, standardized and reproducible assessments of each resident's functional capacity using a Resident Assessment Instrument.

Consequently, the Panel is considering 2 classes of NF services: (1) assessments and (2) follow-up care. The codes within each class would take into account the physicians' work as it relates to the NF requirements to perform assessments and establish or revise plans of care.

(3) Rest home, domiciliary, or custodial care facility medical services (90400-90470). At the present time, there are 4 levels of service for new patients and 5 levels of service for established patients. The Panel noted the wide variations in the regulatory oversight of domiciliary care and concluded that the patients receiving domiciliary care are more like patients receiving home care than they are like patients receiving NF care. Nonetheless, the Panel recognized that there are situations when physician work could vary based on State regulatory requirements. Comments as to whether unique code descriptors for domiciliary visits should be developed or whether the code descriptors should follow the descriptors for NF visits or home visits will be welcomed.

(4) Emergency department services (90500-90580). At the present time, there are 6 levels of service for new patients and 6 levels of service for established patients. The Panel noted the concerns and problems of emergency physicians in distinguishing new from established patients and agreed that the nature and extent of physicians' work does not vary significantly based on whether the patient is new or established. Consequently, the Panel is considering eliminating the classes of new and established patients and has drafted codes for 5 levels of service that would apply to all emergency department patients, regardless of whether they are new or established.

(5) Preventive medicine (90750-90778). At the present time, there are 5 levels of service for new patients and 5 levels of service for established patients. The codes are based on patient age. Although the preventive medicine codes are not covered by Medicare, the Panel is considering revising the current descriptors as part of its overall effort to reform the coding of evaluation and management services. The Panel reviewed the recommendations of preventive medicine physicians and agreed that the age ranges in the current codes could be made consistent with the age ranges specified in the U.S. Preventive Service Task Force report. The Panel is also considering separate codes for counseling and risk factor reduction interventions furnished to healthy individuals.

There are also separate CPT codes for some ophthalmological and critical care visits. In the model fee schedule, we raised the question of whether these visits should continue to be coded separately, or whether some or all of these codes should be collapsed into the new visit codes to be developed by the CPT Editorial Panel. The CPT Editorial Panel is currently considering

appropriate revisions to properly reflect the services being furnished. We anticipate that this process will continue through the year as more information becomes available (for example, the Phase III values for the new visit codes). We intend to participate in this review through our participation on the CPT Editorial Panel. We will continue to work with the CPT Editorial Panel on clarifying the use of codes other than the general visit codes.

2. Scope of the Global Surgery Policy

a. Background and current carrier procedures. As mentioned earlier, under the physician fee schedule based on the Harvard study, national uniform relative values would be established for all physician services. A national CF would be calculated. The GPCIs or GAF would be incorporated to produce local physician fee schedules.

Since the fee schedule is based on national relative values, uniform definitions of services must be established. Without standard definitions, it would not be possible to compute a budget neutral CF with any degree of accuracy. Standardization is also necessary to produce equitable payment amounts, that is, to assure that, nationwide, payment is made for the same amount of work and resources involved in furnishing the specific service. Standardization of surgical procedures is a special problem because of the concept of global surgery. Surgical services make up about one-third of all billings for physicians' services and are expected to be about \$9 billion in FY 1990.

The surgery billing guidelines in the AMA's CPT state that "Listed surgical procedures include the operation per se, local infiltration, metacarpal/digital block or topical anesthesia when used, and the normal, uncomplicated follow-up care. This concept is referred to as a 'package' for surgical procedures." Under this concept, surgeons bill a single fee for all their services usually associated with the surgery. This global fee includes all intra-operative services necessary for the surgery itself, and follow-up care such as hospital and office visits and services such as removal of sutures and casts. In some cases, pre-operative visits may also be included.

Each of the Medicare carriers uses the concept of global fees for surgery. However, there are significant variations among carriers as to what periods constitute pre-operative and post-operative care and what specific services are included in these periods. For example, in a recent survey we

conducted of carrier practices, 53 percent of carriers included pre-operative care in the global surgery fee. While 100 percent of the carriers include post-operative care in most global surgery fees, the number of days in post-operative care varies by procedure and carrier. The number of days included in post-operative care ranged from 0 to 270 days after surgery.

b. Harvard study assumptions. As discussed in section IV. C. 1., the physician work RVUs in the fee schedule would be primarily based on Phase II of the Harvard study. The global surgical service in the Harvard study included pre-operative visits on the day before surgery or the day of surgery, the hospital admission work-up, the primary operation, immediate post-operative care including dictating operative notes, talking with the family and other physicians, writing orders, the evaluation of the patient in the recovery room, post-operative follow-up on the day of surgery, and post-operative hospital and office visits. The surgeon's initial evaluation or consultation was excluded.

The global service for surgery in an ambulatory setting included pre-operative visits and work-up; dressing, scrubbing, and waiting before the operation; the primary operation; post-operative care on the day of surgery; and post-operative visits. Again, the surgeon's initial evaluation or consultation was excluded.

The work RVUs for surgical Services received from Harvard reflected, to a great extent, our preferred national uniform global surgery policy that is discussed below. In some cases, minor modifications were necessary for us to compute the work RVUs for surgical services in Addendum B.

c. Proposed definitions. We are proposing the following uniform, national global surgery policy. This policy was also proposed in the notice "National Standardization of 'Global Surgery' Policy" (BPD-698-PN), published in the Federal Register on January 8, 1991 (56 FR 699). This policy would apply in all settings. Although there is considerable existing variation among carriers and no existing national "norm," we believe that our proposal reflects the existing policy of many carriers and, to a certain extent, the way that physicians already bill.

(1) Initial evaluation or consultation by a surgeon. About 40 percent of all carriers currently include in their global surgery fee the initial evaluation or consultation by the surgeon to determine the need for surgery. However, they only do so if the consultation occurs within 3 to 7 days

before the surgery. If the decision is made not to do the surgery, the surgeon is allowed to bill separately for the consultation in all cases.

We are proposing that the initial evaluation/consultation be paid separately. It is a distinct, readily identifiable service that is furnished whether or not the surgery is performed. Furthermore, the value of the work performed for the evaluation/consultation is the same whether the surgery is performed or not. Since it is always billed when the surgery is not performed, we believe it is preferable from both a policy and an operational standpoint to pay for the surgical evaluation/consultation separately. The underlying concept of the fee schedule is to uniformly base payment on the resources involved in furnishing a service. Paying the initial evaluation or consultation by the surgeon separately in all cases would do this. A disadvantage of allowing separate billing of the consultation is that it subjects the program to possible upcoding of the level of consultation billed (that is, consultations are billed using three levels of codes reflecting varying levels of effort). However, we have adjusted the budget-neutral CF calculation by factoring in the additional consultations that are now included in the global surgery fee by some carriers that would be billed by surgeons.

(2) Pre-operative visits. The majority of carriers presently have a global surgery policy that includes pre-operative hospital and office visits for periods averaging 3 to 5 days. We believe a global surgery policy should reflect the total work required for the surgeon to complete the service once the decision for surgery is made. We prefer a pre-operative policy that includes all pre-operative visits, in or out of the hospital, by the surgeon from the time of the evaluation/consultation when the decision to have the surgery is made. (Surgeons could bill separately for services unrelated to the surgery regardless of when they were furnished.)

We believe this is the practice that most surgeons already follow today. A recent study by the Center for Health Economics Research (CHER) of the 100 most frequently performed surgical procedures paid by Medicare shows that in the overwhelming majority of cases, physician follow the global billing concept, that is, they submit a single bill for all visits associated with the surgery. (Packaging Diagnostic Test Interpretation and Surgical Procedures with Office Visits. Center for Health Economic Research, April 25, 1989. J. Bogen, R. Boutwell, and J. Mitchell, under HCFA Cooperative Agreement

No. 99-C-985241-04.) (See Addendum D for information concerning how to obtain a copy of this study.)

We realize, however, that for operational purposes a specific number of days constituting the pre-operative period may be necessary. After consulting with our own medical staff, carrier medical directors, and outside physician groups, and after examining carrier billing data, we are proposing a pre-operative period of 30 days. It would be highly unusual for the surgery to occur more than 30 days from the time of the initial evaluation/consultation when the decision to have the surgery is made. This period also would be sufficient to cover the few billings we presently receive for pre-operative visits.

One possible objection to this policy is that it would not allow the surgeon to bill for services furnished to seriously ill patients who need to be stabilized before surgery. When the surgeon is actively involved in treating the patient by furnishing visits before surgery, we would allow payment when documentation justifying the need for the surgeon's service is submitted. We would also pay for services of other physicians when furnished to seriously ill patients who need to be stabilized before surgery.

(3) Intra-operative services. The AMA's CPT contains codes and concise descriptions of all physicians' services. There is a general understanding by physicians and insurers that intra-operative services that are normally a usual and necessary part of a surgical procedure are included as part of the global surgery policy. We are proposing that these intra-operative services be included in the national global surgery policy.

We believe any inconsistencies that exist concerning the specific services that should be included as part of a surgical procedure should be eliminated so that we would have a national uniform global surgery policy. Our carrier medical directors have expressed concern that there is an even greater potential for unbundling of the intra-operative services than for pre- and post-operative services. We are working with the physician community, the PPRC, and the carrier medical directors to arrive at a clear understanding for all global surgery packages as to exactly what are the usual and necessary intra-operative services for such surgery.

(4) Complications following surgery. As discussed in the model fee schedule notice published in the Federal Register on September 4, 1990 (55 FR 36178), and in the proposed notice, "National

Standardization of Global Surgery Policy", published in the *Federal Register* on January 8, 1991 (56 FR 966), we proposed to include services furnished during additional trips to the operating room to correct for common complications (for example, replacing stitches) within our global surgery package. We believe this is currently the practice of most surgeons, and that they do not usually bill separately for these services. We were considering three methods of implementing this policy.

One method would be to include in the global fee all re-operations for complications that occur within a specific time period after the initial surgery. This period could be 24 hours, 72 hours, or the remainder of the inpatient stay. An exceptions process could be established for dealing with re-operations in highly unusual cases.

Another method would be to compile a list of complications which if required, should be done at no extra charge by the surgeon. Examples of these complications include wound complications such as dehiscence, infection, and hemorrhage. Additional payment would be allowed outside of the global fee for re-operations, which because of the severity of the illness or other circumstances, could not ordinarily be anticipated or prevented.

A third method would be to use a combination of a specific time period and lists. That is, a list of complications that should always be included in the global surgery fee, regardless of the time period, would be combined with a time period during which no payment would be made for re-operations unless documentation of the highly unusual circumstances justifying additional payment is submitted.

The issue of complications was discussed with our own medical staff, carrier medical directors, the American College of Surgeons, and physicians with the Public Health Service, the Center for Disease Control, the Veteran's Administration, and the Department of Defense. As a result of these discussions, we have modified our position.

We now believe that the global surgery fee should include all additional medical or surgical services required of the surgeon because of complications, which do not require additional trips to the operating room. For example, surgeons say that simple services, such as a "stitch pop", would normally be done at the bedside with no extra payment made. All medically necessary return trips to the operating room, for any reason and without regard to "fault", could be separately billed and paid for, but at a reduced rate. All other

medical and/or surgical care by the surgeon for post-operative complications would be included in the global fee.

We believe this policy is fair to beneficiaries, physicians, and the Medicare program. It would not be fair to beneficiaries to deny payment for necessary return trips to the operating room. It would not be fair to physicians to deny payment, even at a reduced rate, since additional work is required.

We also believe this is the best policy from an implementation standpoint. To attempt to base payment for correction of complications on whether the complications are the "fault" of the surgeon would be difficult at best, and impossible in many if not most cases. Although Medicare is required by law to make medical necessity determinations, the question of "fault" has legal and malpractice implications that are beyond the scope of the definition of "global surgery."

We do not believe that paying for a surgeon's services during return trips to the operating room would result in abuse. We do not believe physicians would subject their patients to risk merely to secure additional payment. Nor do we believe that hospitals or peer review groups would permit this practice to continue if it did occur.

We are proposing setting the payment level for re-operations to deal with complications at the value of the intra-operative services being performed when there is a CPT code to describe these services, for example, 32120, "Thoracotomy, major; for post-operative complications." Codes exist to describe re-operations for complications for various body areas. When no code exists, the appropriate unlisted procedure code from the surgery section of the CPT—for example, 43999, "Unlisted procedure, stomach"—would be used. We propose setting the payment level at 50 percent of the value of the intra-operative services originally performed. Since the pre- and post-operative services would have been paid as part of the original global surgery fee, no additional payment for these services would be made. We are requesting comments on our proposed complications policy and on the 50 percent payment level.

(5) Post-operative visits. All carriers currently include post-operative services in their global package. The number of days varies by carrier and procedure. We are proposing a standard 90-day post-operative period that would include all visits by the primary surgeon during this period unless the visit is for a problem unrelated to the diagnosis for which the surgery is performed or is for an added course of treatment other than

normal recovery from the surgery. For example, if after surgery for prostate cancer, the urologist who performed the surgery subsequently administers chemotherapy services, these services would not be part of the global surgery package. Although 90 days is ample time for most surgeries, some—such as open heart surgery and certain orthopedic procedures—require a longer period for complete recovery.

We propose to include all post-operative visits furnished within 90 days for complete recovery, and we request that the commenters identify the number of days in which complete recovery could be expected. We also request comments concerning whether the post-operative period should be defined on a procedure-specific basis.

We believe a global surgery policy should be no less stringent than the policy that is used by most carriers today. Indeed, a case could be made for a more stringent global surgery policy than exists today because of the added incentive for "unbundling" under the fee schedule. In either case, we do not believe the physician community would be disadvantaged in the aggregate by our recommendation as the CHER data show that physicians rarely bill outside of the proposed global surgery policy now, regardless of the carrier global fee policy.

d. Computing RVUs for global surgery. Once the definitions of global surgery services are established, RVUs for work, practice expense, and malpractice costs would have to be computed to reflect the definitions. Phase I of the Harvard RVUs primarily represented only in-hospital services. Phase II of the Harvard study provided relative values for global surgery closely based on our proposed policy, as will Phase III. Analyses by CHER of current billing patterns by surgeons during the preoperative period indicated no need to increase RVUs to add in the value associated with additional pre-surgical visits. We have no evidence that, in general, surgeons are providing a significant number of additional visits in the pre-operative period. Also, if they document that they participated in patient care before surgery, we pay for those visits separately (outside the global surgical fee). As stated in § 415.22, practice expense and malpractice RVUs would be based on a percentage of the current average allowed charge. The work, practice expense, and malpractice RVUs would be added to arrive at the total RVUs for a global surgical service.

Other issues related to global surgery—multiple surgery, bilateral

surgery—are discussed in section VI. C. on payment modifiers.

3. Minor Surgery and Nonincisional Procedures

a. Minor surgery. In addition to the major global surgeries in the Surgery section of the CPT, there are a number of minor surgeries designated by a "star" following the procedure code number. These relatively minor surgical services involve a readily identifiable surgical procedure but include variable pre-operative and post-operative services (for example, incision and draining of an abscess) and are not traditionally paid using a global surgery policy. Because of the difference in pre-operative and post-operative services, the CPT instructs physicians to bill separately for the procedure itself and any associated services or visits (for example, hospital or office visit, and cast change). However, the CPT is used for Medicare reporting purposes only, whereas we must establish payment rules for billing purposes.

b. Nonincisional procedures ("scopies"). In addition to major and minor surgeries, the surgery section of the CPT also includes the "scopies." These are diagnostic and therapeutic procedures (for example, colonoscopy, and cystourethroscopy) that are frequently performed by nonsurgeons and may or may not involve actual surgery (for example, removal of a polyp). They are done in both hospital and ambulatory settings. The CPT does not specify whether visits are to be billed in addition to the "scopy" if a readily identifiable service (for example, patient evaluation) is performed in addition to the "scopy." CPT billing instructions state that when the scopy is diagnostic, follow-up care for the "scopy" includes only care related to recovery from the procedure itself. Care of the condition for which the diagnostic procedure was performed or other concomitant conditions is not included and may be billed separately.

c. Preferred approach. Presently, most carriers report that they conform to CPT coding rules with minor variations as to when visits are allowed in addition to the surgery or "scopy" being performed. However, in research on this issue, using 1986 claims data, CHER found that physicians do not often bill for office visits when performing endoscopies. Visit bills were submitted for only 18 percent of proctosigmoidoscopies, 10 percent of sigmoidoscopies, and 2 percent of other common scopies.

Under the relative value scale concept, our payments should reflect the actual work performed. If the sole purpose of an encounter is to have a

minor surgical procedure or "scopy" performed, there would be no justification in paying for both a visit and the procedure. On the other hand, if documented evaluative services are performed in addition to the surgical procedure or "scopy", payment could be made for a visit. For example, a new patient is referred to a gastroenterologist for a possible scopy. The gastroenterologist conducts a thorough examination to first determine if the patient is a candidate for a scopy, and immediately proceeds to do the scopy. In this case, both a visit and a scopy could be billed if the visit is clearly documented. On the other hand, if a gastroenterologist has been following an established patient, examines the patient on Monday, and schedules the patient for a scopy on Tuesday, only a scopy could be billed for the Tuesday encounter since that was the sole purpose of the encounter.

We believe post-operative visit services related to recovery from the procedure (for example, removal of sutures) should be included in the payment for the procedure. This would guard against excess billings for procedures not previously billed. However, follow-up treatment for the condition for which a diagnostic endoscopy was performed, for example, would be payable separately from the endoscopy.

We are therefore proposing for minor surgeries and "scopies" that no visit generally be allowed in addition to the surgical procedure or scopy unless a documented, separately identifiable service is furnished and post-operative services related to recovery from the procedure be included for a period of 30 days. The minor surgeries and "scopies" that would be included in this policy will be identified in carrier instructions.

B. Defining Geographic Payment Localities

1. Current System.

Under the present customary and prevailing reasonable charge system of payment for physicians' services, a Medicare locality is the geographic area that the carrier uses to determine the prevailing charges for services. There are presently 240 Medicare localities, which were developed by carriers, based on their knowledge of local medical practice and economic conditions. Some of the localities reflect political boundaries, such as counties or cities; others are zip code areas or metropolitan areas; and some are as small as parts of cities or as large as States. Many localities are actually noncontiguous areas that are treated as

a single locality because the areas share common characteristics. Medicare locality boundaries have remained relatively stable since the inception of the program in 1965.

2. Localities Under the Fee Schedule

Section 1848(j)(2) of the Act defines fee schedule areas as Medicare payment localities. However, recognizing the lack of consistency among current localities and the fact that significant demographic and economic changes may have occurred since the existing localities were established, we are studying and reviewing recommendations on the possible reconfiguration of existing localities. One such study is being conducted for us by the Urban Institute. Also, Congress required in section 6102(d)(6) of Public Law 101-239 that the PPRC conduct a study to determine the feasibility of using some other configuration, such as States or MSAs, for payment areas under the fee schedule. The PPRC included the results of this study in its 1991 annual report. The PPRC recommended that current carrier localities be replaced with Statewide fee schedule payment areas except in States with high intra-State price variation. In each of these States—California, Florida, Georgia, Illinois, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New York, Pennsylvania, Texas, and Virginia—up to five payment areas would be defined, corresponding to MSA population categories. Each MSA that crosses State borders would have a uniform index value and would be considered as falling entirely within the State that contains the largest portion of the MSA's population. Any State that is currently a Statewide locality would continue to be defined as a Statewide area. This would reduce the number of payment areas from 240 to 97. We are interested in receiving comments on the PPRC's proposal. Completion of our internal review and the PPRC report may result in recommendations to reconfigure existing localities at a future time.

We occasionally receive inquiries from physicians and their Congressional representatives in individual States concerning the possibility of converting to a single Statewide locality. Once we point out that a conversion will result in both payment increases (usually in rural areas) and decreases (usually in urban areas), it becomes more difficult to demonstrate widespread support within the State physician community for the change. Section 4117 of Public Law 101-508 provides that Statewide localities be

established under the fee schedule for Oklahoma and Nebraska if we receive by April 1, 1991, written expression of support from (1) each member of the congressional delegation from the State, and (2) organizations representing urban and rural physicians in the State. However, in the press release announcing his signing of Public Law 101-508, the President stated that this provision is unconstitutional because it (1) vests significant authority to execute Federal law in persons not appointed by the President, and (2) attempts to confer lawmaking power on individual members of Congress. He instructed the Secretary that this provision was without legal force.

Section 1848(j)(2) of the Act defines a fee schedule area as a locality used to compute payment amounts under the present reasonable charge system. We do not believe, however, that this precludes us from making locality changes under the present system, nor that it mandates maintaining all existing payment areas under the fee schedule. We propose to allow conversion to Statewide localities in States if overwhelming support from the physician community for the change can be demonstrated. Any changes made under this policy would be effective on January 1, 1992. Because we have already received a demonstration of support from physicians in Nebraska and Oklahoma, we are proposing that those States be converted to Statewide localities on January 1, 1992 under the authority of sections 1848(j)(2) and 1842(b)(3).

Under the current system, carriers are often required to "gap-fill" to compute prevailing charges. This occurs when insufficient charge data exist within a locality for a specific procedure or for a type of service or a certain physician specialty. One type of gap-filling involves combining data from all localities within a carrier area to compute a carrier wide (usually State) prevailing charge for a given service. Some carriers (typically those with a large number of localities within their service areas, for example, Texas) construct a "super-locality"—a combination of localities. These super-localities may even be assigned separate locality codes. This would not be necessary under the fee schedule.

As previously discussed in section IV. D. on GAFs, GPCIs have been developed and proposed for all existing payment localities. Since a relative value would be computed for every physician service and a GPCI would be available for every locality, a fee schedule amount would be computed for

every service for every locality. Even if a service was never previously furnished in a given locality, a fee schedule amount would exist if that service is ever billed to the carrier in the future. All payments under the fee schedule would thus be made at the normal locality level, making existing "super-localities" or gap-filled State prevailing charge localities obsolete.

All fee schedule localities are listed along with their GPCIs in Addendum C—Geographic Practice Cost Indices by Fee Schedule Areas. As discussed in section IV. D. on GAFs, the Mayo Clinic, which is its own locality under the current system, will be included in carrier 10240 locality 1 based on its geographic location. Also, the Virgin Islands, which is considered part of New York carrier 803 locality 3 under the current system, will be its own locality under the fee schedule with the national average GPCI value of 1.000.

As under the current payment system, carriers would continue to compute and make payments under the fee schedule. We would, however, establish the payment amounts based on a national CF, national relative values, and locality GPCIs. Payment localities and GPCIs would therefore correspond. Once the initial fee schedule payment areas and their respective GPCIs are established, carriers would not be allowed to modify them. The establishment of and any changes in localities would no longer be left to the discretion of the carrier, but would be done by us. The initial fee schedule areas are listed in Addendum C. Any subsequent changes, along with the corresponding GPCI changes, would be announced in the Federal Register.

VI. Adjustments to Fee Schedule Payments

A. Site of Service Differential

1. General

Payments under the physician fee schedule are designed to reflect the resource inputs used by a physician to furnish a service. Measurements of these resources are incorporated into RVUs that, as described earlier, are the basis for determining the Medicare fee. The relative value is comprised of work, practice expense, and malpractice costs components.

The practice expense and malpractice cost components of the relative value may vary by site of service. Some practice expense and malpractice costs—those directly associated with furnishing a service—may vary depending upon whether the service is performed in a physician's office or in the outpatient department. For example, a physician may incur the costs of

equipment, supplies, and personnel when performing a service in the office. However, these costs may be incurred by the outpatient department when the service is performed there. Regardless of where the service is performed, the physician will incur malpractice costs and indirect costs such as billing expenses.

As payment under the fee schedule is intended to reflect resource costs, payment should vary by site of service if practice expenses differ between the office and outpatient department. The discussion that follows is limited to physicians' services that can be performed in more than one setting. (Radiology and diagnostic test procedures represent a "special case." Later, we discuss setting payment amounts for professional and technical components of these services.)

Differential payment based on site of service is also intended to provide incentives for physicians to perform procedures in the most appropriate setting. For instance, if a procedure is performed in a hospital or outpatient department, we make separate payments to both the physician and facility. By providing additional payment for services that can be safely performed in an office, we would encourage furnishing the services in offices and we would incur lower total costs than if the procedures continued to be performed in outpatient hospital settings. Additionally, a payment limit on office-based procedures (procedures routinely or typically performed in offices) performed in the outpatient department would reflect differences in practice expenses and maintain incentives for furnishing these services in physicians' offices.

Currently, there are two situations (for services other than diagnostic tests and radiology services) when the Medicare rules either limit or provide additional payment for a physician service depending upon where the service is furnished. The two situations are as follows:

- **Outpatient Limit**—Sections 1842(b)(3) and 1861(v)(1)(K) of the Act as enacted by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) authorize us to limit payment for a service routinely performed in a physician's office if the service is furnished in an outpatient hospital setting. Implementing regulations at § 405.502(f) establish the limit at 60 percent of the prevailing charge. The outpatient limit does not apply to services furnished in rural health clinics, surgical services that are covered ASC services, bonafide emergency services

(as defined in section 5031 of the Medicare Carriers Manual) furnished in hospital emergency rooms and anesthesiology and radiology services.

As a portion of the payment for a physician service includes practice expenses, the outpatient limit is applied to avoid paying both the physician and hospital for the cost of practice expenses such as equipment and supplies that are incurred by the hospital. The outpatient limit has been criticized for discounting all practice expenses from the physicians' fees without recognizing that some practice expenses (for example, billing and malpractice) are borne by the physician regardless of the site of service.

- **Payment for Incidentals**—Payment for services and supplies which are incidental to a physician's service is currently made separately by some carriers. In this case, additional payment is made when a service that is routinely performed in a hospital is furnished in the physician's office. The additional payment is made to compensate the physician for the extra cost of incidentals that would otherwise be borne by the hospital.

Additional payment for designated services is currently provided when a surgical procedure routinely performed in a hospital inpatient setting is furnished in an ASC. An ASC can be a doctor's office or part of a hospital that has been certified to receive Medicare payment for certain inpatient procedures that have been determined to be safe to perform in an ambulatory setting. For those procedures that can be performed in ASCs, Medicare would pay both the physician's surgical fee plus a separate facility fee. The additional payment, the ASC fee, is provided to give physicians an incentive to move a service from a hospital inpatient setting to a less expensive outpatient setting.

2. Options Under a Fee Schedule

As detailed earlier, Public Law 101-239, prescribes a methodology for computing practice expense and malpractice RVUs by applying historical practice cost percentages to base allowed charges. Section 1848(c)(3) of the Act as added by Public Law 101-239 also gives the Secretary the authority to develop policies with respect to the use of modifiers and other "ancillary policies" needed to establish a physician fee schedule based on RVUs. Based on these legislative authorities, there are several options regarding differential payments based on site-of-service under the fee schedule. The options we considered are described below.

- **Option 1—Pay the Same Amount Regardless of Site of Service**

Under this option, payment would not vary by site of service. Payments would be the same regardless of whether the service was performed in an office or outpatient department. There are two general approaches under this option that we considered.

- **Option 1(a)—Base Payment on Practice Costs in the Dominant Site of Service**

Although payments would not vary by site of service under this option, practice expense and malpractice costs would be based on the dominant site of service. For services performed predominantly in an office, payment would reflect practice expense and malpractice costs in the office setting. For services performed predominantly in outpatient settings, payment would reflect non-office practice expense and malpractice costs. There would be no limitation for office-based procedures performed in outpatient departments or additional payment for facility-based procedures performed in an office.

We did not select this option because payments would not appropriately reflect the resource costs for furnishing a service nor would there be incentives to perform a service in the most appropriate setting. Because payments would reflect practice costs incurred in the dominant site of service, payments would be too high or too low when the service was furnished in the site that did not predominate. For instance, if the office site were dominant, payment to the physician would be too high when the service was furnished in the outpatient setting. This would occur because practice expense not incurred by the physician would be included in the payment. In this case, there would be inappropriate incentives to perform a service in the outpatient setting. Conversely, if a non-office site were dominant, payment to the physician would be too low when a service was performed in an office. This would occur because practice expense and malpractice costs incurred by the physician in an office would not be included in the payment. In this case, physicians would not have a financial incentive to perform facility-based procedures in their offices.

- **Option 1(b)—Base Payment on Practice Costs Averaged Across All Sites of Service**

Under this option, there would be one practice expense relative value based on the weighted average practice costs across all sites. Similar to option 1(a), payment would not vary by site of service.

Again, we did not choose this option because it would result in payments that do not appropriately reflect the physicians' resource costs nor would it provide incentives to perform a service in the most appropriate setting. Option 1(b) would provide payments that are too high or too low regardless of whether the service is furnished in the predominant site of service. Since a physician's practice costs are less in the hospital setting, providing compensation based on a weighted average would lead to excessive payment for services furnished in hospitals. Conversely, services furnished in the office would be underpaid. This approach would also provide incentives to perform services in a hospital that may be more appropriately performed in an office.

- **Option 2—Vary Payment by Site of Service**

Under this option, payment would vary by site of service. Again, there are two general approaches.

- **Option 2(a)—Base Payment on Office or Non-Office Practice Costs**

Under Option 2(a), different practice expense and malpractice cost relative values would be developed for office and outpatient settings. The appropriate practice expense RVU would be applied to determine the physician's fee. For instance, if a service is performed in an office, the payment amount would reflect office specific practice expense and malpractice cost RVUs. If the service is performed in outpatient settings, payment would reflect the non-office practice expense and malpractice cost RVUs.

An advantage of this approach would be that payments would reflect incurred practice expense and malpractice costs regardless of where the service was furnished. Under this option, physicians might have incentives to perform facility based procedures in their offices since, by performing facility-based procedures in their offices, they could receive higher Medicare payments.

Although the higher payment would reflect office practice costs, the administrative convenience of performing services in their offices could provide inappropriate incentives to move services furnished in a facility to the office setting. This problem would be alleviated if a list of facility-based services that could safely be performed in an office setting were developed.

While we believe that ideally site-of-service differentials should reflect actual practice cost differences by procedure in office and outpatient settings, unfortunately data do not presently exist for this purpose. The PPRC is currently exploring estimating

practice costs through surveys of physicians' practice and from studies of individual medical practices. However, this work is not expected to yield the comprehensive and detailed data that would be needed for Option 2(a) in time for the initial fee schedule implementation.

• Option 2(b)—Provide Differential Payments in Limited Circumstances

Another approach would vary payment based on site of service following, to a large extent, the framework in present law; thus, it would be much more feasible to implement by January 1, 1992 than Option 2(a). Under this approach, payment would be as follows:

—Services that are primarily performed in office settings when performed in outpatient departments would be subject to a payment limit. For these procedures, we would pay a reduced percentage of the practice expense RVUs. Payment would be the lower of the actual charge or the reduced fee schedule amount.

—As discussed in detail in section IV. A. 5. a., for a specified list of facility-based procedures that are sometimes performed in physician offices, physicians would be permitted to bill separately for the cost of a specified list of expensive supplies if those supplies are used to perform the procedure in the office. We would not allow separate billing for inexpensive supplies such as gauze. Those minor supply costs would be included as part of the physician payment.

We propose to adopt option 2(b) under the physician fee schedule under the statutory authority of section 1848(c)(4) of the Act. This policy would retain the ASC payment and the current outpatient limit for physician services, making it similar in many respects to current policy. The payment limit on physician services in the outpatient department would differ somewhat from our current policy.

We are proposing to publish a national list of procedures subject to the site of service limitation, which are performed predominately (that is, at least 50 percent of the time) in office settings. We are also considering extending this limit to include procedures that are performed less than 50 percent of the time in an office setting but that exceed an annual aggregate volume threshold. Finally, the limit is applied only to the practice expense RVUs and not the entire payment. The limitation on the practice expense RVUs would reflect lower practice costs incurred in the outpatient department. We expect malpractice costs would be

less for services furnished in the outpatient department because the provider would likely share the malpractice risk. However, we are not proposing that malpractice payments vary by site of service because we have no supporting data.

Additionally, we would determine the practice expense RVUs according to practice costs incurred in the dominant site-of-service and not the average of practice costs across all settings. Therefore, if a physician performs an office-based service in the office, payment would reflect practice expense costs incurred in the office. If a physician performs an office-based service in an outpatient department, payment would reflect only a portion of practice costs incurred in the office. If a physician performs an office-based service in an outpatient department, we would only pay that portion of practice costs considered applicable to a service in the outpatient department. We are excluding the professional component of radiology and diagnostic services from the application of this limit because we believe most of the practice expense for these services is accounted for by the technical component.

We would also eliminate the current exception for emergency services. Since the basis for the adjustment is the lower practice costs in provider settings, we believe it should apply whether or not the service is classifiable as an emergency. However, services of physicians assigned to the emergency department and who bill under codes 90500 through 90580 would not be subject to the outpatient limit for these services. These codes are not used by physicians in office practice. The practice expense RVUs assigned to their services would be based on current average allowed charges, which would reflect prior application of the outpatient limit to the extent it was previously applied.

Based on our analysis of available data, we propose to reduce the practice expense RVU by 50 percent when an office-based service is performed in an outpatient department. As practice expense costs represent about 41 percent of total revenues on average, limiting the practice expense RVU by 50 percent is equivalent to an average reduction in the overall fee by approximately 21 percent ($.41 \times .5$). (As stated earlier, we currently pay 60 percent of the prevailing charge or reduce the overall payment by 40 percent when an office-based service is furnished in an outpatient hospital setting.)

To derive the 50 percent figure, we used more detailed 1989 practice costs

data that we obtained from the AMA. These data provide detail on physicians' practice expenses by category of service and are the best available to us now.

Practice expense	Percentage of total expenses	Percentage limit on practice RVU
All practice costs.....	100	50
Nonphysician employees.....	39	19.5
Office.....	27	13.5
Medical equipment.....	6	0
Medical supplies.....	12	0
Other.....	17	17

The first column provides a percentage distribution of all physicians' practice costs by type of expense. The second column shows how we derived the 50 percent reduction rule. The outpatient department is generally responsible for equipment and supply costs, so we made no allowance for these costs when office-based services are performed in the outpatient department. We also believe that physicians have significantly lower practice expenses for these services, for employee and office costs. (For this purpose, we assumed about one half of these expenses would be borne by the facility.) The sum of the percentage in the second column provides the percentage limit we propose. We are proposing a 50 percent limit on the practice expense RVU when office-based services are performed in an outpatient department, based on the assumption that physicians do not incur the direct costs of furnishing a service in this instance. We note that, using survey data from a few multi-specialty clinics in different parts of the country, the PPRC reported that, on average, 52.6 percent of practice expenses are attributable to direct costs.

Services for which an ASC facility payment is made, by definition, are routinely performed in hospital settings and would not be subject to the limitation.

A final distinction between this option and the current policy is that the limit on services in the outpatient department would apply to a nationally developed list of services. The current policy leaves to each carrier the determination of whether a service is currently performed in physicians' offices in each area.

B. Professional/Technical Component Services

"Professional" and "technical" modifiers (or separate codes for professional and technical component services) have been established for

some part B physician services in order to acknowledge in the payment system that physicians should be compensated differently depending on the portion of the service they actually furnish. The professional component is presumed to include the physician's work in interpreting the test result in the case of diagnostic services that require a separate interpretation and in managing the administration of therapy in the case of therapeutic radiology services. The technical component encompasses the cost of the equipment, the salary of a technician, films, etc. A "global" charge in this context refers to both professional and technical components of a service.

In some cases, the professional/technical component modifiers serve much the same purpose as a site of service differential, since whether a physician, such as a radiologist, incurs the costs of employing technicians and purchasing equipment used to furnish a service will often depend on whether the service is being furnished in the physician's office or in a hospital or other facility. However, when a physician furnishes a service to a hospital inpatient or outpatient, the physician is permitted to bill only for the professional component. (This is true even if the service for a hospital inpatient is performed in a physician's office because of the requirement in §§ 405.310(m) and 405.550(b) that all nonphysician services furnished to hospital patients be paid only to the hospital.) Moreover, even radiologists furnishing services in their offices may need to bill only for a professional component payment if, for example, the only service furnished was interpretation of an x-ray, while the actual test was conducted elsewhere. Thus, the distinction between the professional and technical components hinges on the site of the service, the status of the patient, and the nature of the service actually furnished.

Under the current payment system there are three types of physicians' services that distinguish between the professional and technical components. One group is diagnostic and therapeutic radiology services (already introduced at section IV. C. 5.); a second is certain diagnostic tests that involve a physician's interpretation. These include, for example, the cardiac stress test and an electroencephalogram (EEG).

The third group is made up of physician pathology services (primarily anatomic pathology), which are currently paid on a customary, prevailing, and reasonable charge basis.

Physician pathology services are usually furnished in a hospital setting or by an independent laboratory. These services include the professional services of the physician in studying the specimen and interpreting the test result (the professional component) and the preparation of the material by technicians (the technical component). If services are performed in a hospital setting, the physician bills only for the professional component, since costs associated with the technical component are presumed included in the Medicare payment to the hospital through the fiscal intermediary. If a physician pathology service is performed in an independent laboratory, a global billing for both components is submitted. Billing and payment only for the technical component of a physician pathology service is rare.

Most carriers maintain two separate payment screens for physician pathology services; one for the professional component furnished by hospital pathologists and another for the technical and the professional component furnished by independent laboratories. Some carriers maintain only one set of screens for all physician pathology services regardless of the entity that furnishes the services. At the time we were developing a separate pathology fee schedule (the requirement for which has since been repealed by Pub. L. 101-508), we considered how we might establish technical component values for physician pathology services furnished by independent laboratories. In examining BMAD files for these services, we found that professional component billings represented about 75 percent of total physician pathology billings, with independent laboratory billings representing about 25 percent. We also found that average submitted charges for professional component billings were higher than charges for independent laboratory billings for about 80 percent of the 57 codes. There was no distinguishable pattern to explain why or when these professional and independent laboratory billings differed. At that time we concluded that it would be inappropriate to use charge data for attaching a value to the technical component of physician pathology services furnished by independent laboratories. Our current approach to developing technical component values for physician pathology services, given this lack of charge data, is explained later in section VI.B.3.

We propose to treat professional and technical component services under the fee schedule as follows:

1. Radiology Services

The global RVU would be the sum of the professional component and technical component RVUs. The professional component RVU from the existing radiologist fee schedule would be divided into physician work, practice expense, and malpractice components for the purposes of rescaling and applying GAFs. The allocation of RVUs into these components would be based on historical practice cost percentages for radiologists who do not own their own equipment. We used practice cost data for 1989 obtained from the AMA.

We rescaled the work portion of the current professional component RVUs using the following process:

- For the radiology codes surveyed by Harvard, we determined the ratio of the Harvard work value to the current professional component work RVU for each code. We used the mean ratio as a rescaling factor.

- We multiplied the work portion of the current RVU by the rescaling factor to obtain a rescaled RVU for the work portion of the professional component.

The practice expense and malpractice RVUs for the professional component are based on the radiologist fee schedule.

The technical component relative value unit from the existing radiologist fee schedule would be treated essentially as practice costs are treated for all other physician services. That is, the technical component RVUs under the fee schedule would be equal to the estimated average allowances for each technical component service based on the radiologist fee schedule. However, as the technical component does not include a professional physician services, we would divide the technical component into practice expense and malpractice expense components only for the purposes of rescaling and applying GAFs. The portion of the technical component RVU attributable to practice expense and malpractice would be derived from historical practice cost data (for radiologists who own their own equipment) to allocate all RVUs between the two components—practice expense and malpractice. For example, assume that the technical component RVU for a service was 100. Historical practice cost data shows practice expense costs equal 47.8 percent of revenue and malpractice costs equal 3.0 percent of revenue. Setting work RVUs equal to zero, the total RVUs of 100 percent would be allocated—94.1 percent to practice expense and 5.9 percent to malpractice. As with the professional component, the

practice expense and malpractice portions would be multiplied by the national average CF to obtain practice expense and malpractice RVUs on a dollar scale.

When the radiologist fee schedule was implemented in April 1989, global and technical component RVUs for about 230 radiological services were not published as part of the fee schedule. These radiological services were generally interventional radiological services and were almost exclusively performed in hospital settings. We published the professional component relative values for these services as appendix B of the implementing MCM instructions (section 5262) and in the March 2, 1989 interim final rule. Because these services were not generally furnished in physicians' offices or freestanding centers, there was little data available from which to establish and validate RVUs for these services. The ACR established values for these services using a base unit value that represented their estimate of the basic facility costs for the service such as equipment, space, overhead, and administrative costs, which was supplemented by a time factor to arrive at the technical component relative value. To determine the time factor, the number of minutes that it took to perform the procedure was estimated and multiplied times a charge per minute.

The ACR then attempted to validate these values by collecting information on the cost of the technical portion of radiology services through a survey of its members. However, because of technical difficulties, the ACR was not able to use the information provided from the cost survey. Therefore, we did not publish the ACR's technical component values since there was no independent charge data or any cost data to use to validate the relative values. In the absence of values for these procedures, we instructed the Medicare carriers to develop local relative values to pay for the services when they were performed in a non-hospital setting.

For this rule, we are proposing to develop technical component values for the radiology procedure codes for which technical component relative values were not published with the implementation of the original radiology fee schedule in 1989. Since these services are usually not performed in a setting other than the hospital, we still cannot rely on part B physician and supplier data to provide us with credible technical component billing information. Therefore, we are proposing to use

hospital cost and charge information to estimate selected technical component values.

For all procedures with a volume of at least 1000 bills, we determined the average hospital charge for these radiology services from hospital bill records and we multiplied this value by the national average cost to charge ratio for radiology services of 0.6 to approximate the average hospital cost for the procedure. For lower volume procedures (that is, those services with fewer than 1000 hospital bills), we used the ACR relative values for the technical components and the values derived for the high volume procedures as described above to extrapolate values for the remainder of the procedures. We invite comments on this process for developing the relative values for these technical components.

Using the methodology described earlier with respect to work RVUs, all these RVUs on the scale of the existing radiologist fee schedule would be rescaled so that they would be expressed in the same units used for other services included in the physician fee schedule before payment amounts would be computed.

2. Diagnostic Tests

a. General. Under the fee schedule, there is a need to define: (1) Which services are considered diagnostic tests and include a technical component; and (2) the method to be used to establish the technical component relative value. Generally, for non-diagnostic and non-radiology services, a single Medicare benefit (that is, the physician's service benefit) applies and a single payment—encompassing payment for the professional and practice expense aspects of a service—is made. However, in the case of diagnostic services, two Medicare benefits apply (that is, the physician's service and the diagnostic test) and two payments (that is, to two separate entities) may have to be made. Although global billings and payments are frequently made for diagnostic services (that is, a single payment to one entity for both the physician's service and the diagnostic service), different business or organizational entities are entitled to separately perform and bill for the two different services. As a consequence, we must treat each diagnostic service as two separate services for purposes of establishing payments—a professional component or physician's service and a technical component service. This means that, under the fee schedule, we must establish physician work, practice expense, and malpractice relative values for the physician's service aspect

of the diagnostic test and practice expense and malpractice relative values for the technical component aspect of the diagnostic test. The physician work relative value for the latter would always be zero. (As noted later, some diagnostic services are comprised of solely a technical component aspect.)

In trying to arrive at a definition, we considered classifying a service as a diagnostic test when the procedure involved the use of diagnostic equipment and/or utilized technicians in the performance of a diagnostic service. That definition, however, could result in classifying the taking of blood pressure and many ophthalmological visit services as diagnostic tests at least in part. We believe therefore that the definition should be decided on very pragmatic grounds rather than on the basis of some theoretical distinction in classifying services. Our proposed definition of a diagnostic test includes the following three criteria:

- The service is diagnostic as opposed to therapeutic in nature.
- The physician's professional service is separable from the technical component of the test. This means that the professional diagnostic service is not so integrally related to the performance of the test so as to make separation a practical impossibility.
- Physicians have traditionally separated the professional and technical components of the service for billing purposes.

Using this standard, endoscopic procedures that are diagnostic in nature would be considered to be only a physician's service with no technical component since the physician does the entire service and there is no diagnostic "test" that can be practically separated. Similarly, we would not establish a separate technical component for ophthalmology visit services (for example, 92002) since the service has always been billed as a physician service with no separable technical component. In addition, no technical component would be recognized for services including the use of diagnostic equipment, which is of very nominal cost and when the "diagnostic" service is considered to be covered by the visit. "Handheld" x-ray equipment and pocket dopplers fall into this category.

As a practical matter, we used three general measures to determine whether we could establish a separate technical component value for a diagnostic service. First, we reviewed the site of the service. If the service was furnished in an office setting 90 percent or more of the time or in a hospital setting 90 percent or more of the time, we did not

create a separate technical component. Second, using the global average allowed charge, we compared it with the professional component average allowed charge. If the difference was less than 25 percent, we did not create a separate technical component. Third, if the frequency of the service for either the global or the professional component was less than 1,000 nationally, we did not create a separate technical component value and considered the service to be a physician's service with no technical component.

A number of anomalous situations were created when technical component values were determined from the subtraction of professional average allowed charges from global allowed charges. These anomalies occur when technical values are created for a particular procedure and no technical component, or a substantially different value, is created for a very similar procedure. We invite comments on the issue of creating separate technical components for certain diagnostic procedures and on methods of determining technical component values.

The fact that a service is classified as a diagnostic test does not automatically mean that there is a separate professional component. There is, of course, no professional component for clinical diagnostic laboratory services. Rather, payment for the interpretation of these tests is considered to be included in payment for the related visit or consultation. Similarly, there are other diagnostic tests that traditionally have not had separate interpretation fees. It is our intention to follow traditional billing practices under the fee schedule and not to encourage additional billings by creating separate interpretation (professional component) relative values for diagnostic tests that have not been separately billed in the past. An example is audiology tests (CPT 92581ff).

If a diagnostic test service is found to have separate professional and technical components, it would be treated as follows under the fee schedule. The professional component RVU would be the Harvard physician work RVU plus practice expense and malpractice RVUs based on current average allowed charges. (The professional component service would be treated like other physicians' services under the fee schedule, including application of the GAFs.)

The relative value for the technical component would be based on the difference between the average allowed charge for the global service and the average allowed charge for the

professional component. Thus, we would establish the RVU for code 93017 (tracing only, for a cardiovascular stress test) based on the difference between the allowance for 93015 (cardiovascular stress test with interpretation and report) and code 93018 (interpretation and report only). The RVU for the global service (for example, 93015) would be equal to the sum of the RVUs for the professional service (for example, 93018) and the RVUs for the technical component (93017). Note that we are not proposing to use the current charge data for the technical component in the computation because there is an insignificant number of billings for technical-component-only services.

For services that do not have a professional component (for example, the various audiology function tests, 92551 through 92589), the RVUs would be based on the average allowance for the service itself. Finally, for diagnostic services for which there is no reliable technical component charge data (for example, cardiac catheterization), the RVUs would be derived through alternative means as discussed below.

For diagnostic tests without a professional component, the question arises as to whether we will classify the service as a physician service subject to the GAF for physician services or as a technical component without physician work, that is, subject to the practice expense and malpractice GAFs only. We are proposing the latter course even though Harvard has provided physician work values for audiology and other types of tests. Our rationale is that the services are billed frequently by nonphysician suppliers such as audiologists and at charge levels that are frequently higher than billings by physicians. Also, when the supplier does bill we have no indication that the requesting physician bills for an "interpretation" of the test. The facts support our view that the service should be treated as not containing a professional component. Thus, GAFs would be applied to the technical component RVUs generally as described above for radiology services. Physician work would be presumed equal to zero; the division of the technical component RVUs into practice cost and malpractice portions would be based on historical practice cost data for physicians performing the service.

The following are the services that are being classified as diagnostic tests for purposes of the physician fee schedule and the basis we propose to use to establish the technical component RVUs for the service.

DIAGNOSTIC TESTS

Procedure code	Type	Pricing of tech. Comp.
M0520	Pacemaker analysis	1
M0525	Ekg w/pacemaker analy.	1
M0526	Ecg	1
M0535	Above 12-24 hrs	1
M0540	Ekg signal avg	1
51795	Urodynamic	1
51797	Urodynamic	1
92546	Otorhin	1
92547	Otorhin	2
92551	Audiologic	2
92552	Audiologic	2
92553	Audiologic	2
92555	Audiologic	2
92556	Audiologic	2
92557	Audiologic	2
92559	Audiologic	2
92560	Audiologic	2
92561	Audiologic	2
92562	Audiologic	2
92563	Audiologic	2
92564	Audiologic	2
92565	Audiologic	2
92566	Audiologic	2
92567	Audiologic	2
92568	Audiologic	2
92569	Audiologic	2
92571	Audiologic	2
92572	Audiologic	2
92573	Audiologic	2
92574	Audiologic	2
92575	Audiologic	2
92576	Audiologic	2
92577	Audiologic	2
92578	Audiologic	2
92580	Audiologic	2
92581	Audiologic	2
92582	Audiologic	2
92583	Audiologic	2
92584	Audiologic	2
92585	Audiologic	2
92589	Audiologic	2
92596	Audiologic	2
93005	Ekg	2
93012	Ekg	2
93015	Ekg	1
93017	Ekg	2
93040	Ekg	1
93041	Ekg	2
93202	Ekg	2
93208	Ekg	2
93221	Ekg	2
93224	Ekg	1
93225	Ekg	2
93226	Ekg	2
93231	Ekg	2
93232	Ekg	2
93236	Ekg	2
93307	Echo	1
93308	Echo	1
93312	Echo	1
93320	Echo	1
93325	Echo	2
93720	Vasc study	1
93721	Vasc study	2
93731	Vasc study	1
93732	Vasc study	1
93733	Vasc study	1
93734	Vasc study	1
93735	Vasc study	1
93736	Vasc study	1
93762	Vasc study	1
93850	Noninv vasc	1
93860	Noninv vasc	1
93870	Noninv vasc	1
93890	Noninv vasc	1
93910	Noninv vasc	1
93950	Noninv vasc	1

DIAGNOSTIC TESTS—Continued

Procedure code	Type	Pricing of tech. Comp.
93960	Noninv vasc	1
94010	Pulmonary	1
94060	Pulmonary	1
94070	Pulmonary	1
94200	Pulmonary	1
94240	Pulmonary	1
94250	Pulmonary	1
94260	Pulmonary	1
94350	Pulmonary	1
94360	Pulmonary	1
94370	Pulmonary	1
94375	Pulmonary	1
94620	Pulmonary	1
94680	Oxygen/gases	1
94681	Oxygen/gases	1
94715	Oxygen/gases	1
94720	Oxygen/gases	1
94725	Oxygen/gases	1
94750	Oxygen/gases	1
94762	Oxygen/gases	1
95000	Allergy testing	2
95001	Allergy testing	2
95002	Allergy testing	2
95003	Allergy testing	2
95005	Allergy testing	2
95006	Allergy testing	2
95007	Allergy testing	2
95011	Allergy testing	2
95014	Allergy testing	2
95016	Allergy testing	2
95017	Allergy testing	2
95018	Allergy testing	2
95020	Allergy testing	2
95021	Allergy testing	2
95022	Allergy testing	2
95023	Allergy testing	2
95027	Allergy testing	2
95030	Allergy testing	2
95031	Allergy testing	2
95032	Allergy testing	2
95033	Allergy testing	2
95034	Allergy testing	2
95040	Allergy testing	2
95041	Allergy testing	2
95042	Allergy testing	2
95043	Allergy testing	2
95051	Allergy testing	2
95056	Allergy testing	2
95060	Allergy testing	2
95065	Allergy testing	2
95070	Allergy testing	2
95071	Allergy testing	2
95075	Allergy testing	2
95078	Allergy testing	2
95080	Allergy testing	2
95081	Allergy testing	2
95082	Allergy testing	2
95819	EEG	1
95822	EEG	1
95823	EEG	1
95827	EEG	1
95828	Neurology	1
95863	Neurology	1
95864	Neurology	1
95925	Neurology	1
95937	Neurology	1
95950	Neurology	1
95951	Neurology	1

(1) Technical Component=Global minus Professional

(2) Technical Component only

b. Electrocardiograms. Section 4109 of Public Law 101-508 provides that effective with services furnished beginning January 1, 1992, separate payment can no longer be made for the

interpretation of EKGs that are performed or ordered to be performed as part of or in conjunction with a visit or consultation. In addition, physicians who knowingly and willfully bill beneficiaries for separate interpretations that cannot be paid for under the Medicare program are subject to sanctions in accordance with section 1842(j)(2) of the Act. For this purpose, the conference committee indicates in report language (Conference Report No. 101-964 to accompany H.R. 5835) that the following CPT codes are covered under this provision: 93000, 93010, 93040, and 93042. (Code number 93041 is listed in the conference committee report as an interpretation code; however, this is clearly erroneous since the code is a tracing only code without an interpretation.) We believe that virtually all EKGs are performed as part of or ordered in conjunction with a visit. This would include the following types of situations:

- A physician performs an EKG during a visit and does the interpretation himself. The interpretation would not be separately payable although payment would be made for the technical component.
- A family physician refers a patient with a suspected cardiac problem to a cardiologist for a consultation. The cardiologist performs a complete workup including taking and interpreting an EKG. The interpretation would not be separately payable although payment would be made for the technical component.
- An EKG is ordered for a hospital inpatient by a surgeon for a patient scheduled for surgery. The EKG is interpreted by a cardiologist who does not see the patient. The EKG is considered to have been ordered in conjunction with the visit to the surgeon and is therefore not separately payable.
- A patient is brought to a hospital emergency room with chest pains. The ER physician orders an EKG. Whether the test results are interpreted by the ER physician or a cardiologist, the interpretation is not separately payable under the Medicare program since it was ordered during the ER visit.

We are presuming for purposes of calculating the CF that we will no longer be paying for any separate EKG interpretation fees under any of the aforementioned codes. We are, however, establishing relative values for EKG interpretations under these codes because of the possibility that some situation will be presented that involves the separate interpretation of an EKG not related to a visit. Furthermore, we will still be paying for the interpretation

of very specialized EKGs under other codes not included within the scope of the statutory provision. This list would include codes 93201, 93204, 93205, 93209, 93220, 93222, 93224, 93227, 93230, 93235, and 93237. (See section VI.B for a description of how we propose to compute professional and technical component RVUs for diagnostic tests, including EKGs, under the physician fee schedule.)

We are proposing to incorporate additional RVUs into visit codes to reflect the work for EKG interpretations. Specifically, we performed an analysis of claims data to determine the number of RVUs to add to the total for each visit code to account for EKG interpretations. To each visit code, we would add some fraction of the 17 total work RVUs for an EKG interpretation, based on the historical frequency of EKGs associated with each of three types of visits—office visits (excluding minimal office visits), hospital visits, and consultations. Data for all specialties were used and these increased RVUs would apply to visits performed by all physicians. Examples of RVUs for selected office visits as adjusted to reflect EKG interpretation follow:

CHANGES TO WORK RELATIVE VALUES FOR SELECTED VISIT CODES WHEN EKG INTERPRETATION VALUES ARE INCLUDED

(RVUs to add to office visits=2.2)

CPT code ¹		Visit RVU	Visit EKG RVU	Percent increase
90040	Office/ Outpatient visit, est., brief.	36	38.2	6.1
90050	Office/ Outpatient visit, est., ltd.	53	55.2	4.2
90060	Office/ Outpatient visit, est., intern.	53	55.2	4.2
90070	Office/ Outpatient visit, est., extended.	86	88.2	2.6
90080	Office/ Outpatient visit, est., compreh.	136	138.2	1.6

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We expect to conduct additional analyses to further refine our methodology to more accurately allocate RVUs for EKGs to specific visit codes.

c. Technical component of cardiac catheterization services. Cardiac catheterization services, in the past, have been performed almost exclusively

in the hospital setting. With some exceptions, only a professional component billing has been necessary for payment to be made to physicians. However, recently, we have provided coverage criteria that must be met before diagnostic cardiac catheterization can be performed in a free-standing facility. The Medicare carriers were instructed in section 5246.9 of the Medicare Carriers Manual that cardiac catheterization procedures can be covered in free-standing facilities if, in consultation with the appropriate PRO, they can determine that the services can be performed appropriately and safely in the facility.

In addition, we suggested two methods of establishing an inherently reasonable allowance for the technical portion of the diagnostic catheterization procedures. The two methods were:

- Use hospital cost and charge data to estimate the cost of furnishing cardiac catheterization in the hospital setting; or,
- Use cost data supplied by the freestanding cardiac catheterization facility as a basis for the technical component payment.

We surveyed the Medicare carriers to determine how they priced these procedures. We found that there was a wide range of payments being made by the carriers and that they used several variations on our payment guidelines to develop the Medicare payment amount for the technical component. In addition, we found that there was not widespread use of free-standing facilities and that hospitals continue to dominate the performance of cardiac catheterization. We do not believe that the Medicare payment data obtained from the carriers is sufficient to become the basis for determining the value of the technical component of cardiac catheterization for the fee schedule.

We believe that the number of procedures done in free-standing cardiac catheterization facilities will increase; therefore, there is a need to establish a technical component value for the service. We propose to use data taken from outpatient hospital bills to calculate the estimated cost for cardiac catheterization furnished in the hospital outpatient department and to use these costs as the technical component for cardiac catheterization services. We propose to apply the average cost to charge ratio for the hospitals when these services are performed to arrive at a national average cost for cardiac catheterization. We plan to publish these technical component values in the final rule. We invite comments on our methodology to calculate the technical

component values for cardiac catheterization procedures.

d. Purchased diagnostic tests. Section 1842(n)(1) (as added by Pub. L. 100-203) provides for the elimination of the physician markup for purchased diagnostic tests. In essence, if a physician bills for a diagnostic test performed by an outside supplier, payment to the physician may not exceed the lowest of: (1) The supplier's net charge to the physician, (2) the physician's actual charge, (3) the fee schedule amount for the test that would be allowed if the supplier billed directly. Moreover, nonparticipating physicians may not bill beneficiaries amounts other than the allowable payment amount as determined above; participating physicians may not bill the beneficiary amounts other than the allowable payment amount and any applicable deductible or coinsurance.

The objective of this provision was twofold: (1) To save program costs by eliminating the profit when a physician buys a diagnostic service from an outside supplier, and (2) to reduce provision of unnecessary services by taking away the markup. The diagnostic tests in question are considered to be physicians' services under the fee schedule and subject to the general payment rules under section 1848 of the Act. We are preserving the purchased diagnostic test limit under the fee schedule. The original justification for it is still valid, and we have incorporated this provision into § 415.46.

3. Physician Pathology Services

At the time we were developing the separate pathology fee schedule that is no longer required, we asked organizations representing pathologists and independent laboratories for assistance in deriving an appropriate difference between professional and global allowances. Although they all agreed that there was some technical component and that logic dictated that global allowances be higher than professional allowances, they declined to recommend an appropriate differential because of a lack of data. Our own analysis of charge data at that time led us to conclude that it is difficult to arrive at reasonable estimates of the value of the technical components of pathology services. Some carriers do not distinguish between professional and global pathology services. In other cases, the payment distinctions reflected in historical charges appear irrational. (For example, professional charges were sometimes higher than global charges.)

Section 4104(c) of Public Law 101-508 requires that in implementing the physician fee schedule we consider an

appropriate adjustment to reflect the technical component of furnishing physician pathology services through a laboratory that is independent of a hospital and separate from a physician's office. We understand that the College of American Pathologists will be obtaining some analysis related to this issue from Abt Associates, but no findings have been provided to us yet. Therefore, in the absence of alternative data upon which to base a technical component value, we propose to assume that the technical component of physician pathology services is equal to 15 percent of the 1991 adjusted historical charge. This is the assumption employed by the Congress in section 4104(a) of Public Law 101-508, which limits reductions in prevailing charges for global pathology services furnished by a physician through an independent laboratory to no less than 115 percent of the professional component prevailing charge for the same service when furnished by a hospital-based physician in the same locality.

In drafting this provision, Congress seems to have assumed that the technical component of the services in an independent laboratory is approximately 15 percent of the professional component. We will use this Congressional direction as a starting point for valuation of the technical component of physician pathology services. If the Abt data or other data become available to us during the next few months, we may adjust this figure up or down in the final rule for the physician fee schedule.

GAFs would be applied to the technical component RVUs generally in the same way as described above for radiology and diagnostic tests. Physician work would be presumed equal to zero; the division of the technical component RVUs into practice cost and malpractice portions would be based on historical practice cost data for pathologists.

4. Future Plans

We do not consider the methods outlined above for determining the technical component fee schedule amount to be satisfactory for long term use. Rather than basing the fee schedule payment on historic average allowed charges, we believe the technical component payment should be derived based on analysis of the actual costs of producing the service by an efficient physician or supplier. Given the absence of this data now, we have no choice but to use historic charges. However, over the next several years, we plan to gather needed cost data to revise the fee schedule over time. Priority will be

given to services involving the highest expenditure level or when we question the appropriateness of payment amounts or both.

C. Payment Modifiers

There are two types of modifiers under the current payment systems. Modifiers to the procedure codes are used either to establish different payment amounts or to record descriptive information that does not affect payment levels. There are three levels of modifiers for HCPCS codes: Level 1 are CPT modifiers, Level 2 are national HCPCS modifiers established by HCFA, and Level 3 are local carrier-unique modifiers. Carriers have always had autonomy in the use of other modifiers to reflect local practices (including local carrier-unique modifiers). Transition to a national physician fee schedule requires standardization in the use of all modifiers.

We propose that only modifiers for which we establish a national payment policy would affect payment. If there is no national payment policy governing the use of a modifier, there would be no differential payment based on the presence or absence of that modifier. However, we expect to permit carriers to continue to use local modifiers when they are used for purposes other than payment (for example, utilization or medical review screening).

1. Multiple Surgery (CPT Modifier 51)

Sometimes surgeons perform more than one procedure on the same patient on the same day, resulting in the use of the multiple surgery modifier in billing for the procedures. The BMAD files for 1988 indicate that the multiple surgery modifier was used for over 1.5 million allowed services. When more than one procedure is performed, the issue arises whether Medicare should increase payment for the surgeons' services. Since payment for most surgical services is made on a global fee basis, we need to determine whether additional procedures performed are separate procedures that are separately billable or whether these additional procedures are incidental to the primary surgery and thus not separately billable.

As a practical matter, this requires a precise definition of the intra-operative procedures included as part of a primary surgery procedure so that we do not inappropriately make duplicate payments for procedures that are already included in the global fee for the primary surgery. We are working with the PPRC, physician groups, and carriers to develop these definitions and means of identifying when the use of multiple

surgical modifiers is appropriate and inappropriate. As discussed in section V. B., the clarification of intra-operative procedures would affect the estimated frequency of services needed for computing the budget neutral CF.

Carriers generally make additional payments to surgeons for additional procedures not incidental to the primary surgery. Carriers vary in the amounts of these adjustments, but most carriers make an additional payment of 50 percent for the next highest procedure, and additional payments of 20 percent to 50 percent for other procedures. Some carriers add adjustments for an infinite number of procedures, and some carriers add adjustments for no more than 3 procedures.

The Harvard study did not measure or assign work values to the amount of added work associated with performing multiple surgical procedures. This is an area that needs to be studied in the future. Until better data are available, we see several different approaches for establishing the national policy for payments for multiple surgeries. For example, we could establish a general policy using standard percentages like those frequently used now, that would be applied to the global payment amounts for any multiple surgery. Alternatively, we could base the adjustment on either the relative values or a standard percentage of the intra-operative work for the specific procedures that were performed.

If we establish a general policy using standard percentages that would be applied to the global fee amounts for the procedures performed, the policy would be easy to understand and easy to administer. We could apply the current practices of many carriers to the fee schedule by providing for 100 percent payment for the most expensive procedure, 50 percent payment for the second highest procedure, and 20 percent for the third highest procedure, with a limit of payment for 3 procedures, regardless of the number actually performed.

A variation of this option would be to pay a different percentage, say, 40 percent (rather than 50 percent) of the fee schedule amount for the second procedure. Another option would be to base the add-on only on the intra-operative work of the second and subsequent procedures. The rationale for this option is that the intra-operative work would be less if additional surgery is performed on the same day. Further, the pre- and post-operative work of multiple procedures does not increase to the same degree as the intra-operative work. Thus, we could pay a specified percentage, perhaps 40 or 50 percent, of

the intra-operative work value for the second procedure, with lower percentages applying to any other procedures performed.

Yet another option would be to include payment for multiple procedures in the payment for the primary procedure. This could be done, for example, by raising the relative values for the primary procedure by a proportional amount to reflect the average occurrence of bills for secondary procedures. This could be justified on the basis that payments for second and third procedures would average out among physicians performing primary procedures.

We are proposing to pay for multiple surgeries using the option of paying 100 percent of the global fee for the highest value procedure only, 50 percent of the global fee for the second most expensive procedure, 20 percent of the global fee for the third most expensive procedure, and 10 percent of the global fee for each succeeding procedure. Our proposed policy is similar to that currently used by many carriers and is familiar to physicians. We believe that it is equitable to the program and physicians alike. We do not have any objective data for valuing the incremental work associated with performing multiple surgeries. As we acquire more information and experience with the physician fee schedule, we will review our policy on payment for multiple surgeries. We welcome comments on our proposed policy.

If several surgeons each perform distinctly different, unrelated procedures on the same day, the multiple modifier would not be used unless one of the surgeons performed multiple surgeries. Each physician would be paid for the surgery performed (for example, multiple trauma). In these cases, an unusual services modifier 22 should be used. (See the following section for unusual services.)

We are concerned that there are some procedures in the surgery section of the CPT, specifically endoscopies and excision of skin lesions, that do not readily lend themselves to the proposed multiple surgery policy. For example, in the course of performing a fiberoptic colonoscopy (45378), a physician might biopsy one lesion (45380) and, from a different part of the colon, remove a polyp (45385). We believe that paying 100 percent of the global RVUs for the highest valued procedure (45385) and 50 percent of the intra-operative RVUs for the second highest procedure (45380) would result in excessive RVUs for the second highest procedure (45380), and would result in excessive payment as

both the CPT codes 45380 and 45385 have the value of the basic colonoscopy (45378) built in, and we would in effect be counting it twice. This could overvalue the total work involved in performing the biopsy and polyp removal. We also believe that paying for multiple excisions of skin lesions under our proposed policy would similarly overvalue the work and also result in excessive payment. We are specifically requesting comments on these and other procedures when the multiple surgery policy would result in inequitable payment.

2. Bilateral Surgery (CPT Modifier 50)

The bilateral modifier is used to indicate cases in which a procedure was performed on both sides of the body. The BMAD files for 1988 indicate that there were almost 900,000 Medicare-allowed services under this modifier. The issues in determining the payment adjustment to make when the bilateral modifier is shown are quite similar to the issues that arise with regard to the multiple surgery modifier. The CPT identifies surgical procedures that are typically bilateral in nature. CPT code 27395, for example, is used for "Lengthening of the hamstring tendon; multiple, bilateral." For these codes, the bilateral modifier would not result in increased payment.

Carriers have typically paid 150 percent of the payment amount when they believed that the use of the bilateral modifier justified increased payment to the surgeon. We considered variations of this approach, such as paying 40 percent (rather than 50 percent) of the fee schedule amount for the second procedure.

Another option considered was to adjust the payment to the surgeon by adding the intra-operative work RVUs on a procedure-by-procedure basis so that the surgeon would be paid the full work RVUs for the intra-operative work, but for no additional pre-operative or post-operative work. The payment adjustment would be more complex, including the additional complexity of determining whether there had been duplication within the intra-operative work (for example, if only one incision is needed) that should be removed.

We propose to continue the historic practice of paying 150 percent of the global fee. In the absence of any evidence with respect to the actual difference in work for bilateral procedures, we believe paying 150 percent of the global fee is the fairest approach and avoids providing inappropriate incentives to physicians to

schedule separate surgical procedures instead of doing the bilateral procedure in a single session.

3. Providers Furnishing Less Than the Global Fee Package (CPT Modifiers 54, 55, and 56)

When more than one physician furnishes services that are part of a global surgery fee package, the following modifiers are used to identify the services furnished by each:

- Surgical care only: Modifier 54.
- Pre-operative management only: Modifier 56.
- Post-operative management: Modifier 55.

The BMAD files for 1988 indicated almost 18,000 allowed services in which only intra-operative services were billed (modifier 54), about 117,000 allowed services in which only post-operative services were billed (modifier 55), and about 72,000 allowed services in which only pre-operative services were billed (modifier 56).

Under the current reasonable charge policy, the sum of all allowances for all practitioners who furnished parts of the services included in a global fee (and who billed using one or more of these modifiers) are not to exceed the total amount of the allowance that would have been paid to a single practitioner under the global fee for the procedure. This has been an issue, in particular, for global surgery packages in which some services are furnished by ophthalmologists and optometrists. It has also been an issue when cardiologists furnish some of the post-operative services included in a global fee for cardiac surgery furnished by a thoracic surgeon.

We propose to continue to pay the same amount for surgical services when they are furnished by several physicians as we would pay if only one physician furnished all of the services in the global package. However, we need to establish national policies regarding how payment for these services would be made. Specifically, we need to decide how carriers would pay each physician separately for his or her part of the service: whether there would be a standard percentage distribution that would apply to all global surgeries or whether the division would vary by procedure.

We propose to pay each physician directly for the services furnished to the beneficiary based on the RVUs of the component furnished. This could be difficult for carriers to administer if physicians do not use the appropriate modifiers; overpayments and/or denials

could result, and resolution becomes problematic.

In order to reduce duplicate payments, we could use computer matching to identify instances when several physicians billed for services for the same patient within a time period around the use of an operating room and check whether reduced modifiers were being used appropriately. However, computer-matching would not fully resolve these issues because patients may have multiple conditions and several physicians may be appropriately billing unreduced modifiers during any given time period. Detailed medical review to determine legitimate unmodified bills from duplicate bills may also be required to the extent administratively feasible and cost justifiable. We are consulting with carriers, physicians, and others knowledgeable about diagnostic and procedure coding to develop reporting conventions that will facilitate administration of the policy. Specific reporting instructions will be issued by carriers before the fee schedule implementation.

In the unusual cases in which several physicians furnish post-operative services, the payment for the post-operative services would be divided between the physicians based on the number of days for which each physician was responsible for furnishing post-operative care. In these cases, the physicians would be required to indicate when responsibility for the post-operative care shifted from one physician to the other so that carriers could calculate the payments on an individual case basis.

We also considered establishing a standard split (for example, 5 percent pre-operative, 80 percent intra-operative and 15 percent post-operative) that would be applied to the global fee regardless of the procedure (or combination of procedures). This would be easy to administer and easy to understand. However, regardless of the percentages we choose, it is unlikely that we could choose one that would apply equitably to all procedures.

We will be providing breakdowns of all surgical RVUs on a pre-, intra-, and post-operative basis. We will use a benchmark procedure within each family. We will use the percentage breakdown of components for that procedure as a standard percentage for the whole surgical family. The following table shows examples of these preliminary percentages for families of procedures.

PERCENT OF TOTAL RVUS FOR SELECTED PROCEDURE CODE FAMILIES

Procedure ¹	Procedure code family ^a	Percent of total		
		Preop	Intraop	Postop
25605.....	25000-25931	11	34	55
28292.....	28001-28825	12	50	37
31535.....	31300-31595	23	57	20
33210.....	33010-33972	15	33	52
42145.....	42000-42281	12	50	38
43840.....	43500-43885	10	48	42
49600.....	49000-49900	12	50	38
55250.....	54000-55865	15	44	41
61154.....	61000-64907	14	37	49
69437.....	69400-69745	21	40	39

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4. Physicians Who Assist at Surgery (CPT Modifiers 80, 81, and 82)

There are circumstances in which a surgeon requires the assistance of another physician in surgery. Before 1991, § 405.502(a)(9) provided that payment for an assistant-at-surgery could not exceed 20 percent of the prevailing charge for the surgical service. Section 4107 of Public Law 101-508 changes this amount to 6 percent of the prevailing charge in 1991, and amends section 1848(i) of the Act to provide that under the fee schedule, payment for an assistant-at-surgery may not exceed 16 percent of the fee schedule amount for the global surgical service. Section 1848(i) of the Act also provides that no payment may be made for assistants-at-surgery when the most recent data show that for a surgical procedure (or class of surgical procedures) the national average percentage of cases in which an assistant was used is less than 5 percent. A listing of procedures falling into this category is contained in section 5039 of the Medicare Carriers Manual.

We propose to set the payment level for assistants-at-surgery at the lower of the actual charge or 16 percent of the fee schedule amount for the global surgical service. Section 1848(i) of the Act sets 16 percent as a limit, and we believe that it allows us to select a lower percentage if we so choose. We propose to lower the percentage from the current 20 percent to 16 percent, as required by Public Law 101-508.

5. Two Surgeons and Surgical Team (CPT Modifiers 62 and 66)

We recognize that there are valid circumstances when the procedure being done requires the participation of two surgeons or a surgical team (more than 2 surgeons). In these cases, the additional physicians are not acting as assistants-at-surgery, but because of the procedure (or procedures) or the patient's particular condition or both, two

surgeons or a surgical team are required to meet the patient's surgical needs.

In the model fee schedule notice, we stated that we had no specific information as to whether the total work involved in performing a surgery is greater when done by two or more surgeons than when performed by a single surgeon. After consulting with our medical advisors, we believe that there are instances in which co-surgeons or a surgical team are necessary and that the payment amount should be greater in these instances.

For co-surgeons (modifier 62), we propose to continue the current predominant carrier practice of paying 125 percent of the global fee and dividing the payment equally between the two surgeons. No payment would be made for an assistant-at-surgery in these cases.

Team surgery (modifier 66) is only necessary in unusual cases. Under the current system, these procedures are individually paid on a by report basis. Although relative values may be available for some of the services usually done by a surgical team, our medical advisors believe that each situation is unique, and that team surgery procedures should continue to be paid on a report basis. We agree, and propose to continue to allow our carrier medical consultants to determine the payment amounts for team surgery on an individual basis.

Additional payment for both modifiers 62 and 66 is, of course, dependent upon the carrier determining that it was medically necessary to have more than one surgeon perform the surgery.

6. Unusual Services (CPT Modifier 22) or Reduced Services (CPT Modifier 52)

There are cases in which the service furnished is greater than or less than that usually required for the listed procedure. In these cases, the unusual services modifier (22) or the reduced services modifier (52) is used. In 1988, the BMAD files indicated modifier 22

was reported in about 1.5 million allowed services and modifier 52 was used for almost 4.3 million allowed services. In recognition that some flexibility is needed, we would continue to permit carriers to increase or decrease payment for very unusual circumstances, for example, severe trauma as a result of an automobile accident, based on their review of applicable medical records or other documentation. We would expect these cases to be very rare because the RVU-based payment would be computed as an average payment, recognizing that there is variation among individual patients treated. We would monitor the use of these modifiers to prevent their excessive use and the creation of local rather than national RVUs.

7. Multiple Modifiers (CPT Modifier 99)

Carriers vary in how they pay for and process claims with multiple modifiers. In practice, all modifiers that apply are used on the claim unless the carrier's claims processing system cannot accept multiple modifiers. In that case the CPT modifier "99" is used to flag the claim for manual processing.

A national policy regarding the application of multiple modifiers is necessary in order to establish nationally uniform and consistent payments. There are several different approaches. We could apply each of the separate payment adjustments that apply to each modifier. However, under this option, the potential exists for the payment to far exceed what the payment would have been for the procedure without modifiers. Moreover, the appropriateness of the payment adjustments becomes increasingly difficult to judge when there are multiple modifiers.

Another possibility is to specifically limit the total payment adjustments that could be made to a fixed percentage of the base payment for the procedure. For example, we could limit payment to no

more than 160 percent of the global fee, regardless of the number of modifiers that apply. However, this policy could be difficult to define and to apply since several of the most commonly used modifiers are used when more than one procedure is performed (for example, multiple surgeries and bilateral surgeries).

A third option is for us to specifically limit the number of modifiers that could apply. For example, we might only adjust payment for a maximum of two modifiers. Physicians would be instructed to include a maximum of two modifiers on the bill and carriers would apply the applicable modifier policies if they determined that the two modifiers were appropriate.

In many cases, multiple modifiers are now used, for example, to identify services furnished in an HMSA that qualify for subsequent bonus payments. We believe with further study we can dramatically reduce the magnitude of the problem by examining other reporting methods. We are continuing to analyze the use of multiple modifiers and will develop operational instructions to carriers on how to pay for claims with multiple modifiers.

8. Multiple Patients and Single Patient Modifiers on Nursing Home Visit Bills (HCPCS Alpha-Numeric Modifiers MP and SP)

The multiple patient (MP) and single patient (SP) modifiers are currently used to identify visits to patients in nursing homes (other than patients receiving covered Part A care in SNFs). Our current payment policy limits payment for routine visits to MPs in these facilities to payment that would be made for a follow-up office visit. Payment for a routine visit to an SP in one of these facilities is limited to what payment would be for a follow-up home visit. Payment for a visit to treat an acute condition is made at whatever visit level reflects the services furnished, regardless of the number of patients seen at the facility.

We propose to pay for all visits to patients in facilities classified by Medicare as SNFs or by Medicaid as NFs without regard to the number of patients the physician sees at the facility. We believe that this change from longstanding policy is appropriate because the relative values for the services will reflect the physician work in the visit to a SNF or NF patient. Moreover, we believe that the overwhelming majority of visits to these facilities involve seeing more than one patient. Additionally, Public Law 100-203 essentially removed the staffing distinctions between NFs and SNFs; we

have never applied the multiple visit policy to SNFs. Therefore, the payment amounts for visits to these patients would reflect the physician work and no modifier would be appropriate. In computing practice expense and malpractice RVUs for these visits, we would base the allowance on charge data for all services without regard to whether a single or multiple patient modifier is present. Thus, the RVU would reflect the weighted average costs for the mix of patients seen.

9. Modifiers That Would Not Affect Payment Levels

The presence or absence of the following modifiers would not increase or decrease payment levels under the physician fee schedule, although the modifiers may continue to be used for administrative purposes, including utilization reviews.

a. Current CPT modifiers that would not affect payment.

- 20 Microsurgery.
- 23 Unusual anesthesia.
- 32 Mandated services.
- 47 Anesthesia by surgeon.
- 75 Concurrent care.
- 76 Repeat procedure by same

physician.

• 77 Repeat procedure by another physician.

- 90 Reference laboratory.

Similarly, we expect to exclude from consideration for payment purposes CPT codes for special services and reports that serve a similar purpose as the unusual services modifier (CPT codes 99000-99090). For example:

- "After hours" services codes 99050 and 99052.
- Extra supplies and materials codes 99070 and 99071.
- Prolonged physician attendance codes 99150 and 99151.
- Unusual travel code 99082.

b. HCPCS alpha-numeric modifiers that would not affect fee schedule payment amount.

- AT (Acute treatment).
- ET (Emergency treatment).
- LT (Left side of body).
- RT (Right side of body).
- SF (Second opinion ordered by a PRO).
- YY (Second surgical opinion).
- ZZ (Third surgical opinion).

We plan to establish, for administrative purposes only, modifiers to identify monitored anesthesia care and to identify office visits furnished solely by a non-physician practitioner under the "incident to a physician's service" provision. These changes would be made in the final rule.

c. Carrier-unique local modifiers (HCPCS level 3 modifiers beginning with the letters w through z).

No payment differential would be allowed based on carrier-unique local modifiers, although carriers may continue to use carrier-unique local modifiers for medical review, screening, and administrative purposes.

10. Travel

We considered whether there were circumstances in which separate payment for physician travel expenses would be appropriate. Based on our own analysis of carrier practices and other information as well as the advice of carrier medical directors, we propose not to make separate payment for these expenses. We believe that travel expenses incurred by physicians are viewed as part of the practice expense of a medical practice and therefore compensated adequately through the practice expense component of the relative value for a service. This policy seems consistent with the statutory provisions governing how practice expense must be calculated under the fee schedule.

D. New Physician/Practitioner Adjustment

1. General and To Whom It Applies

In § 415.38(d), we propose to reduce the fee schedule payment for physicians and independently practicing PTs and OTs who are in their first through fourth years of practice if certain conditions are met. This reduction for new physicians is required by section 1848(a)(4) of the Act, as added by section 4106(b) of Public Law 101-508. The reduction for new PTs and OTs in independent practice is required by section 1842(b)(4)(F) of the Act.

Section 1842(b)(4)(F)(i) of the Act applies the new physician reductions not only to the determination of reasonable charge payment for physicians in their first 4 years of practice, but also to other health care practitioners paid under fee schedules. The definition of "health care practitioner" at section 1842(b)(4)(F)(ii)(I) includes PTs and OTs. PTs and OTs in independent practice must be paid on the basis of reasonable charges until January 1, 1992 when payment for their services must be set at the rates contained in the fee schedule for physician services. Because the provisions of section 1842(b)(4)(F)(i) apply to PTs and OTs in independent practice whether paid on a reasonable charge or on a fee schedule basis, the reductions will continue to apply to

these practitioners when payment for their services is made under the physician fee schedule.

2. Exceptions

In § 415.38(b)(2), we specify that the reduction required in this paragraph does not apply to primary care services furnished by physicians as defined in section 1842(i)(4) of the Act or to services furnished by physicians or PTs or OTs in a rural area as defined in section 1886(d)(2)(D) that is designated under section 332(a)(1)(A) of the Public Health Service Act, as an HMSA. The definition of "primary care" services is a longstanding statutory definition. Similarly, the definition of a "rural area" as defined in section 1886(d)(2)(D) that is designated under section 332(a)(1)(A) of the Public Health Service Act as an HMSA has long existed within the hospital prospective payment system regulations at § 412.62(f)(1)(iii).

3. Amounts of Adjustments

In § 415.38(d)(3), we set forth proposed amounts of adjustment for the services of new physicians. As specified in section 1848(a)(4) of the Act, the payment for the service of a new physician would be 80 percent of the fee schedule amount in the first year, 85 percent of the fee schedule amount in the second year, 90 percent of the fee schedule amount in the third year, and 95 percent of the fee schedule amount in the fourth year. These adjustments would be applied to the fee schedule payment amount calculated under §§ 415.20 and 415.40.

4. Years of Practice

In § 415.38(c), we set forth proposed definitions of "years of practice" for purposes of determining which payment adjustment applies during a period as specified in section 1848(a)(4) of the Act. Specifically, we propose that the "first year of practice" is the first full CY during the first 6 months of which the physician or independently practicing PT or OT furnishes professional services for which payment may be made under Part B plus any portion of the prior CY if that prior year does not meet the first 6 months test.

We propose that the second, third, and fourth years of practice be the first, second, and third CYs respectively, following the first year of practice, as specified in section 1848(c)(3) of the Act. Thus, if a physician first begins practicing and billing Medicare in March of 1992, he or she would be considered in the first year of practice from March of 1992 through December of 1993 since the first CY in which services were furnished throughout the January to June

period would be 1993. In 1994, he or she would be in the second year of practice.

These reductions would apply to each physician based on his or her status as a "new physician", regardless of whether the new physician is a member of a group practice. This is a change from the comparable longstanding policy for setting customary charges for new physicians.

Until now, the customary charge for a group practice became the customary charge of a new physician who joined a group practice. Therefore, a new physician who joined a group practice was insulated from the restrictions on customary charges for new physicians, and was bound by the customary charge of the group. However, effective January 1, 1992, the new physician reductions will apply to all physicians, regardless of the type of practice in which they participate.

There is no basis in the law for excluding members of group practices from the specific provisions of section 1848(a)(4) of the Act. Moreover, one of the foremost goals of the physician fee schedule is to maximize equity among physicians. To exempt a physician from the new physician reductions based on the nature of the practice in which they choose to participate would be contrary to that goal. Because of the prior exclusion of members of groups from the new physician provisions, carriers would be instructed to identify all physicians who have less than 4 years practice as of January 1, 1992.

E. Participating Physician Differential

Section 1842(h) of the Act, as enacted by Public Law 98-369 (the Deficit Reduction Act of 1984, enacted on July 18, 1984), defined a "Medicare participating physician or supplier" as one who agrees voluntarily to accept Medicare payment as payment in full for all part B services. Over the years a number of incentives have been established in the law to encourage physicians and suppliers to participate in the program. One of the most important of these incentives is a higher payment for Medicare services performed. Under the customary, prevailing, and reasonable charge rules set forth in section 1842(b)(4)(A)(iv) of the Act, the nonparticipating physician reasonable charge for a service may not exceed 95 percent of the participating physician prevailing charge for a service.

Under the physician fee schedule, as specified in section 1848(a)(3) of the Act, the participating physician differential has been retained. More precisely, payments to nonparticipating physicians may not exceed 95 percent of the fee

schedule amount. (As under the old rules, the participating physician differential applies to services furnished by a physician or, incident to a physician's service.) During the transition years, nonparticipating physicians may receive a payment no larger than 95 percent of the transition payment amount payable to a participating physician for the same service. The participating physician differential must be taken into account in calculating the budget neutral CF for 1992.

F. Health Manpower Shortage Area Bonus Payment

Under section 1833(m) of the Act, payments in addition to the amounts otherwise payable under Part B are made to physicians who furnish covered services to Medicare beneficiaries in designated HMSAs. Section 6102(d) of Public Law 101-239 amended section 1833(m) to increase the amount of this bonus payment from 5 percent to 10 percent for services furnished after December 31, 1990. In addition, the amendment broadened the applicability of the bonus to include all designated HMSAs, eliminating the restriction under prior law to Class 1 and 2 areas. These manpower shortage areas, which are identified by the PHS under statutory guidelines, include both rural and urban areas, and bonus payments may be made in both rural and urban areas as of January 1, 1991. Under the statutory authority cited above, the bonus would be applied to payment amounts derived from the fee schedule (or under the transition rules) beginning in 1992. The HMSA bonus is a payment made in addition to any amount payable under the fee schedule.

G. Comparability and Inherent Reasonableness Rules

1. Comparability Rule

Under the Medicare Part B customary, prevailing, and reasonable charge payment methodology currently used to compute physician payments, a statutory provision referred to as "comparability" authorizes adjustments to the payment amounts that would otherwise apply. Section 1842(b)(3)(B) of the Act provides that reasonable charge payments must not be higher than the carriers' private business payments to their own policyholders and subscribers for comparable services under comparable circumstances. For a number of reasons, some carriers have found it difficult to enforce this provision vigorously, while others have applied the principle more strictly.

While the provisions of Public Law 101-239 establishing the physician fee schedule did not directly address the continued applicability of the comparability rule under the fee schedule, Public Law 101-508 did include a provision making it clear that payments under the fee schedule are not subject to the comparability adjustment. Specifically, section 4118(k) of Public Law 101-508 amended section 1848(i) of the Act.

2. Inherent Reasonableness Rule

Under the customary, prevailing, and reasonable charge payment system used to compute physician payments, the Secretary is authorized by sections 1842(b) (8) and (9) of the Act to establish special reasonable charge limits for physicians' services when Medicare prevailing charges are found to be "grossly excessive" or "grossly deficient". According to the statute,

these authorities exist so that the Secretary is able to correct aberrant charges that are determined to be "inherently unreasonable" and to substitute a reasonable charge that is "realistic and equitable."

While the Public Law 101-239 provisions establishing the physician fee schedule did not directly address the continued applicability of the inherent reasonableness adjustment authority under the fee schedule, Public Law 101-508 did clarify this point. Section 4118(k) of Public Law 101-508 amended section 1848(i) of the Act to prohibit any use of the 1842(b)(8) and 1842(b)(9) inherent reasonableness authorities to adjust payment amounts computed under the fee schedule.

VII. Limiting Charge on Nonparticipating Physicians

Section 1848(g) of the Act limits the amount that nonparticipating physicians

can charge beneficiaries called the "limiting charge". Effective January 1, 1991, the limiting charge replaced the Maximum Allowable Actual Charge (MAAC). The MAAC was specific to each physician because it was based on physicians' actual historical charges. The limiting charge continues to reflect physicians' historical actual charge until 1993. Beginning January 1, 1993, the limiting charge will be based solely on the payment allowance, that is, the fee schedule amount.

Effective January 1, 1991, the limiting charge is the same percentage (but no more than 25 percent) above the 1991 prevailing charge for nonparticipating physicians as the percentage by which a physician's 1990 MAAC exceeded the 1990 prevailing charge for nonparticipating physicians.

Example	Dr. X	Dr. Y
A. 1990 MAAC.....	\$1150	\$1300
B. 1990 Prevailing Charge.....	\$1000	\$1000
C. Percentage Difference Between A and B.....	15%	30%
D. 1991 Prevailing Charge.....	\$1050	\$1050
E. 1991 Limiting Charge (D increased by lower of C or 25%).....	\$1207	\$1312

For evaluation and management services (visits and consultations) in 1991 only, limiting charge is the same percentage (but no more than 40

percent) above the 1991 prevailing charge for nonparticipating physicians as the percentage by which a physician's 1990 MAAC exceeded the

1990 prevailing charge for nonparticipating physicians.

Example (Evaluation & Management Services)	Dr. X	Dr. Y
A. 1990 MAAC.....	\$1300	\$1500
B. 1990 Prevailing Charge.....	\$1000	\$1000
C. Percentage Difference Between A and B.....	30%	50%
D. 1991 Prevailing Charge.....	\$1050	\$1050
E. 1991 Limiting Charge (D increased by lower of C or 40 percent).....	\$1365	\$1470

Effective January 1, 1992, a nonparticipating physician's limiting charge is the same percentage (but no

more than 20 percent) above the 1992 fee schedule amount for nonparticipating physicians as the percentage by which

the physician's 1991 limiting charge exceeded the 1991 prevailing charge for nonparticipating physicians.

Example	Dr. X	Dr. Y
A. 1991 Limiting Charge.....	\$1207.50	\$1312.50
B. 1991 Prevailing Charge.....	\$1050	\$1050
C. Percentage Difference Between A and B.....	15%	25%
D. 1992 Fee Schedule Amount.....	\$1100	\$1100
E. 1992 Limiting Charge (D increased by lower of C or 20 percent).....	\$1265	\$1320

Effective January 1, 1993, and thereafter, the limiting charge is 115

percent of the fee schedule amount for nonparticipating physicians.

Example	Dr. X	Dr. Y
A. 1993 Fee Schedule Amount	\$1200	\$1200
B. 1993 Limiting Charge (A Increased by 15 percent)	\$1380	\$1380

Nonparticipating physicians who knowingly and willfully bill beneficiaries in excess of the limiting charge would be subject to sanctions as specified in the statute.

Other Information

VIII. Information Collection Requirements

This proposed rule contains no information collection requirements. Consequently, this rule need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

IX. Responses to Comments

Because of the large number of items of correspondence we normally receive on a proposed notice, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "DATE" section of this preamble, and we will respond to the comments in the preamble of the final notice.

X. Regulatory Impact Analysis

A. Executive Order 12291 and Regulatory Flexibility Act

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any proposed rule that meets one of the E.O. 12291 criteria for a "major rule"; that is, that would be likely to result in—

- An annual effect on the economy of \$100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a proposed rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all physicians are considered to be small entities.

This proposed rule would implement those portions of section 6102 of Public Law 101-239 that establish: (1) A fee schedule for physicians' services; and (2) a limiting charge to constrain the amounts that non-participating physicians can charge Medicare beneficiaries in excess of the allowed charge for covered services. The physician fee schedule replaces the existing customary, prevailing, and reasonable (CPR) charge payment system with new standardized payment amounts computed as the product of an RVU for the service, a GAF for the fee schedule area, and a uniform national dollar CF. The statute requires that the CF for the first year be budget neutral, such that, had the fee schedule applied during 1991, it would result in the same level of aggregate payments as would be made under the reasonable charge system. The new limiting charge replaces the MAAC mandated by prior law with new percentage limits on the amounts that nonparticipating physicians can charge beneficiaries in excess of the amounts allowed by Medicare.

We are preparing a regulatory impact analysis because the provisions of the statute and the proposed regulations are expected to have major effects on the distribution of Medicare physician payments across specialties and across geographic areas. We anticipate that virtually all of the approximately 500,000 physicians who furnish covered services to Medicare beneficiaries would be affected by these policies. There may also be significant effects on beneficiary out-of-pocket costs in some cases. In addition, we have prepared an impact analysis to reflect our proposed change in payment for drugs furnished "incident to" a physician's service. Under this proposed rule, drugs would be paid for outside the physician fee schedule; therefore changes in payment for drugs would not have to be budget neutral.

In addition, because of the complexity of the physician fee schedule and the large number of individuals who would be affected by it, we believe there may be many questions and comments. Based on the comments we received on the Model Fee Schedule published September 4, 1990 (55 FR 36178), we expect a great deal of interest in the methodology for calculating the GPCI values, the refinements to the relative values for various services from the

original Harvard work to the later versions, the calculation of the budget neutral CF, the establishment of an adjusted historical payment basis for purposes of the transition, the revised visit codes and descriptors, and many other issues. The following discussion describes what we know about the impact of the statute and the proposed rule on affected entities and is intended to fulfill the requirements of both E.O. 12291 and the RFA.

1. Effects on Physician Payments

a. Impact estimation methodology. Physician fee schedule impacts were estimated by comparing predicted physician payments under a continuation of the current CPR charge payment system to estimated payments under the physician fee schedule, including the transition rules in effect during 1992 through 1995. As explained in detail in section IV.F., projections of future payments were developed by aging or updating 1989 Medicare claims data from BMAD to reflect various statutory changes and other changes. Details on the process of data source selection, data validation, and data aging are provided in section IV.F. Throughout the impact analyses an assumption was made that claims for all services would be billed at or above the fee schedule amount.

b. Overall fee schedule impact. Throughout the discussion below regarding the impacts of fee schedule implementation, it is important to bear in mind that payment amounts for all services would be strongly affected by two major factors. First, the transition to the fee schedule as specified by statute would be asymmetric because, in 1992, payments for relatively undervalued services would increase to a greater extent than payments for overvalued services would decrease. Payment increases and reductions are both limited to 15 percent of the fee schedule amount, therefore, services experiencing increases move a larger fraction of the way to the full fee schedule than services experiencing decreases. In other words, the transition has a net cost.

Because of this systematic asymmetry that is built into the statutory transition rules, we must reduce payments in order to re-establish budget neutrality. The only statutorily authorized method for

re-establishing budget neutrality is to reduce the fee schedule CF. The effect of this CF adjustment would be to reduce payments per service by about 6 percent by the time of full fee schedule implementation in 1996. (If we could have established budget neutrality in 1992 by lowering all payments to account for the asymmetrical transition instead of only those services subject to the full fee schedule, this adjustment would have been 2 percent rather than 6 percent.)

Second, in establishing the CF, which is statutorily required to be budget neutral relative to 1991 spending levels, we would apply a behavioral adjustment in anticipation of physician and beneficiary responses to changes in payment levels and policy standardization. As explained in section IV.E.3., we would adopt the assumption that responses per physician practice would be sufficient to recoup 50 percent of the net loss of Medicare payments that "losing" physicians would otherwise experience. No volume response by "winning" physicians would be assumed.

In order to achieve budget neutrality, we reduced payments per service (that is, the price of a service) by an additional 10.5 percent by 1996 for a total CF reduction of 16 percent when interaction between the two adjustments is taken into account.

It is important to emphasize that the outlay effect of the statute in FY 1996 would be only a 6 percent reduction and this reduction would be phased in gradually over the transition to the fee schedule. Further, many factors could intervene between now and 1996 that could affect these projections. Moreover, the actual effect on outlays could be more or less depending upon actual responses to the fee schedule.

In addition, it is important to consider the effect of these adjustments relative to overall increases in Medicare spending for physicians' services. Even with the 6 percent decreases in payments relative to CPR payments that could occur under these simulations (taking into account interactions between the CF adjustments), we expect the rapid rise in total spending would continue during 1992 to 1996 at an annualized rate of about 10 percent. This converts to an estimated 63 percent cumulative increase in 1996 physician expenditures over 1991 expenditures. Put differently, despite the reductions in payments per service associated with the fee schedule described above, total physician outlays would rise at an average annual rate of 10.3 percent, only about 1.4 percentage points less than the 11.7 percent increase that would be

expected under a continuation of the CPR payment. The 10.3 percent average annual rate of increase in physician outlays that we expect between 1992 and 1996 is substantially higher than anticipated growth in the nation's economy. Over the same period, nominal Gross National Product growth is predicted to average 6.9 percent annually.

Finally, recent payment reductions required by Public Law 101-239 and Public Law 101-508 have affected payment levels for all physicians because the total outlay amount upon which the budget-neutral CF has been computed is less than it would have otherwise been.

In the discussion below of differential impacts by category (by specialty and by State), the effect of fee schedule implementation on any individual practitioner would depend not only on his or her specialty and locality, but on his or her own historical charging patterns and mix of services furnished. For example, even though family practitioners overall (or in a given locality) are expected to experience increases in total Medicare payment, an individual family practitioner whose historical charges were unusually high or who performed more procedural services than is typical could experience a small increase or even a decrease in Medicare payment.

In the tables included at the end of this section (displaying fee schedule impact by specialty and State), the estimates for Year 1 (1992) take into account the transition rules, under which payments for some services in some localities would reflect a blending of old and new payment amounts. In Year 5 (1996), the fee schedule is fully effective. The columns marked "Change in Payments per Service" assume no change in service frequencies; these are the changes that result simply from the new fee schedule payment rates as compared with payments under the current CPR charge payment system. The columns marked "Change in Payments" take into account not only the rate change per service but also anticipated changes in the volume and intensity of services in response to the fee changes.

The columns under the heading "Percent Increase in Total Budget Outlays under Fee Schedule" do not compare fee schedule payments to hypothetical payments under a continuation of CPR charge payment; these percentages measure year-to-year changes in budget outlays for physician payments made under the fee schedule. These estimates reflect not only the responses to the fee and other changes,

but also all the other anticipated payment updates, changes in volume, mix of services, and enrollment that are traditionally part of budget estimation for Medicare.

c. Specialty level effects. Table 1 of this section shows the estimated percentage change in Medicare physician payment from the old to the new payment system by specialty and projected total budget outlays under the fee schedule by specialty. In general, those specialties that account for more visits and fewer procedures are expected to experience larger total increases in Medicare payments than procedurally oriented specialties, including surgical specialties.

Thus the estimates show, for example, that total Medicare payments to family practitioners and general practitioners would increase nationally at an annual rate of about 15 percent from 1991 to 1996, whereas the total increase in Medicare payments to physicians specializing in ophthalmology, radiology, pathology, and thoracic surgery would increase at a lower annual rate of about 8 percent. These figures can be compared against a national average rate of increase of 10 percent.

Comparing the fee schedule payments against a hypothetical continuation of CPR rules, table 1 also shows that on a per service basis, payment levels under the fully phased-in fee schedule would decrease by about 16 percent across all specialties (3 percent during the first year) relative to the CPR system. Again, results vary significantly by specialty. The specialties predicted to receive the largest increases in total Medicare payments relative to CPR charge payments are general and family practice, with 14 and 15 percent increases respectively in payments per service under the fully phased in fee schedule. Payments for these two specialties would be 16 and 17 percent higher than under the CPR payment system in 1996. Ophthalmologists and anesthesiologists are expected to receive the largest decreases in total Medicare payments relative to a continuation of the current system. Both physician groups can expect a 35 percent reduction in payments per service and a 16 percent reduction in payments, as compared against a continuation of CPR rules, when the fee schedule is fully effective. (However, as noted above, their increases in total Medicare income—including expected growth in volume and intensity, enrollment increases, and annual payment updates—are expected to be about 8 percent per year so that even

"losing" specialties are expected to have higher Medicare income than they currently receive.) Differences from the CPR payment system are much smaller in the first transition year; an 8 percent reduction in payments per service and a 3 percent reduction in payments relative to a continuation of the CPR system is estimated for both ophthalmologists and anesthesiologists.

We have explained that Medicare-covered services furnished by limited licensed practitioners who are not MDs or DOs but who are defined as "physicians" in Medicare law are included within the scope of the fee schedule. While the statute is clear on this point, the Secretary was left with some discretion to determine precisely how these services would be coded and thus how payment amounts would be calculated. As described earlier, we propose to pay these limited licensed practitioners the same as MDs and DOs for services billed under the same CPT code. For those services unique to limited licensed practitioners, we would develop relative values based on charge data.

Included on table 1 are the effects of the change to fee schedule payment on physicians for three of the limited licensed practitioner specialties—chiropractors, optometrists, and podiatrists. Like all other physician specialties, the limited licensed practitioners are expected to receive increasing payments from Medicare from 1991 through 1996, with all three groups predicted to experience rates of increase at or above the national cumulative 5-year increase of 63 percent. Relative to CPR payments, payments to optometrists and podiatrists are predicted to be higher under the fee schedule, as they begin to receive payments in all cases on a par with MDs and DOs when they perform the same service. Chiropractors, whose one Medicare-covered service is performed only by them, would receive fee schedule payments based on national historical charges for that service. As a result, chiropractors as a group can expect payments lower than under a continuation of the CPR rules, generally due to the transition and behavioral effects adjustments to the CF explained earlier.

Table 2 provides, by specialty, percentage changes in allowed charges relative to the national effect of the fee schedule (that is, table 2 displays selected data from table 1 after adjustments for the national effect of the fee schedule). This Table shows the relative gains and losses by specialty as compared to the national average. For

example, while 1996 payments per service for internists could decrease 3 percent relative to CPR payments (see table 1), in comparison to the average for all specialties, payments per service for internists would be 16 percent higher than the national average.

Although all specialty groups can expect smaller gains or larger losses in payments per service than under earlier published scenarios for reasons discussed above, the general pattern of interspecialty redistribution is similar to that in previous simulations—those published as part of the early Harvard work, in HCFA's 1989 report to Congress ("Relative Value Scale (RVS) for Physician Services"), and in the August 8, 1990 article in the *Journal of the American Medical Association* by various HCFA analysts. However, when total payments are considered, the spread between specialties is reduced. In all these studies, use of a payment system based on the relative value of these services as a substitute for the present reasonable charge system has consistently improved payment for visit and consultation services relative to procedural services, including surgery. Our impact analysis by specialty supports this generalization and is therefore consistent with the earlier studies, although the statutory formulas and policies proposed here differ in some ways from the assumptions used in those earlier efforts.

Also, in the past, our impact analyses generally did not incorporate behavioral response assumptions. Use of these assumptions does change the pattern of interspecialty redistribution somewhat, by moderating the effects of the fee schedule on "losing" specialties.

d. State level effects. Tables 3 and 4 illustrate the effects of fee schedule implementation on Medicare payments by State, making clear that the fee schedule would redistribute payments not only across specialties, but across geographic areas as well. Geographic redistribution would occur for a number of reasons. First, the fee schedule would replace the current CPR charge-based payment system in which payments vary greatly and somewhat arbitrarily among States and localities (because it is based on historical charging patterns), with more standardized payment rates that vary geographically based on actual data pertaining to geographic variation in costs. Second, physician specialties that experience increases and decreases in payment per service under the fee schedule would be concentrated in different geographic areas. (For example, there are more surgeons in urban areas than in rural areas.) Third,

the mix of procedures performed varies geographically even within specialties. (General practitioners do more procedural services in rural areas than in urban areas.)

The estimates in table 3 show that total Medicare payments to physicians nationally are expected to increase at an average annualized rate of 10 percent from 1991 to 1996, with modestly higher increases in some States and modestly lower increases in others. Predicted rates of increase vary from 9 percent in Alaska, Florida, and Nevada to 12 percent in Mississippi. Total cumulative increases in Medicare spending for physicians' services from 1991 to 1996 are predicted to range from 55 percent in Florida to 74 percent in Mississippi. (Nationwide the cumulative increase is expected to be 63 percent.) As explained earlier, these budget outlay estimates take into account not only changes in payments per service and volume/billing changes resulting from fee schedule implementation, but also the annual updates, historical volume and intensity trends, enrollment growth, and other factors used by the actuaries in Medicare budget estimation.

Table 3 also allows comparison of fee schedule payments by State against payments that would result under a hypothetical continuation of the CPR charge rules through 1996. First year payments per procedure would be slightly higher than CPR payments in several States; Minnesota payments are expected to exceed CPR payments by the largest margin. Relative to continuation of the CPR charge payment system, payments per service would rise by 4 percent and payments overall by 6 percent. When the fee schedule is fully effective, Mississippi would be the State experiencing the smallest reductions in payment overall as a result of the fee schedule. In that State, payments per service would be 2 percent less than they would have been under a continuation of the CPR payment rules and payments overall would be almost the same as under the CPR charge payment system. Among States experiencing the largest reductions relative to the CPR system would be Hawaii, Florida, and Nevada. In the first transition year, physicians in Hawaii are predicted to experience a 9 percent reduction in payments per service and a 3 percent reduction in payments overall. When the fee schedule is fully effective, physicians in Florida and Nevada would experience a 25 percent reduction in payments per service and a 10 percent reduction in payments overall, relative to a continuation of CPR payments.

Finally, table 4 provides, by State, percentage changes in allowed charges relative to the national effect of the fee schedule (that is, table 4 displays selected data from table 3 after adjustments for the national effect of the fee schedule). This table shows the relative gains and losses by State relative to the national average. For example, while 1996 payments per service in North Carolina could decrease 14 percent relative to CPR payments (see table 3), in comparison to the average for all States, North Carolina would be 3 percentage points higher than the national average.

Like specialty level effects, these State level effects are generally consistent with those shown in earlier analyses. Payments in all States would be affected by the CF adjustments for the transition and behavioral effects, but the pattern of inter-State redistribution remains essentially unchanged.

There will also be redistributions of payments within States. Changes in payment levels could vary more widely if we compared smaller geographic areas than States, such as fee schedule areas. Variation at the fee schedule area level could be greater than at the State level, since the effects within States tend to offset one another. (For example, many States contain both urban and rural areas. Increases in rural areas may be offset by decreases in urban areas.)

e. Effects of separate payment for drugs. We have estimated the budgetary effects of our proposed policy for separate payment for certain drugs. As explained in section IV.A.5.c., carriers generally base payment for covered drugs on the physician's estimated cost of the drug using one of the wholesale price guides such as the Red Book, which is an annual pharmacists' reference published by the Medical Economics Company, Inc., Oradell, New Jersey. Under our proposed policy, carriers would be instructed to base payment for drugs on 85 percent of the national average wholesale price of the drug as published in the Red Book and similar price listings. Our policy would therefore reduce payments for drugs by approximately \$10 million in FY 1992, \$30 million in FY 1993, \$30 million in FY 1994, \$40 million in FY 1995, and \$40 million in FY 1996.

2. Effects on Beneficiaries' Costs and Access to Services

Medicare beneficiaries incur out-of-pocket expenses in relation to their Medicare-covered services arising from (1) the monthly part B premium (\$29.90 in 1991), (2) the annual deductible (increased from \$75 in 1990 to \$100 in 1991), (3) the 20 percent coinsurance,

and (4) balance billing (that is, billing the beneficiary for an amount in excess of the Medicare allowed charge if the claim is not assigned). The implementation of the Medicare physician fee schedule and the limiting charge on balance billing as required by law and set forth in this proposed rule would have important effects on the amounts of beneficiary coinsurance and the amounts of balance billing permitted.

Concern about rising beneficiary out-of-pocket costs has led to an increasing emphasis over the past several years in encouraging physicians' Medicare participation (which requires accepting assignment for all cases), in increasing assignment rates, and limiting the amounts of balance billing. In fact, since Public Law 98-369 (the Deficit Reduction Act of 1984) established the participating physician program with its differential payment rates for participating and nonparticipating physicians, enrollment in the Medicare participating physician program has increased to 44.1 percent (April 1990 figure). Creation of the MAAC limits on balance billing (enacted as part of Public Law 99-509) gave physicians an additional incentive to participate. Participating physician charges represented approximately 63 percent of Medicare physician covered charges during CY 1990. At the same time, assignment rates have also increased steadily so that by CY 1990 the assignment rate based on total charges (physician and suppliers) had increased to 85.3 percent. With this increase in assigned claims and the MAAC limits that took effect in 1987, balance billing decreased from its CY 1986 high of \$2.9 billion to a CY 1990 total of \$2.2 billion, unadjusted for inflation or enrollment growth during this period.

Offsetting these declines in balance billing have been the recent increase in the deductible already mentioned, and continuing annual increases in the premium rate and increases in the amounts of coinsurance as the charges per service and volume and intensity of services have grown. Beneficiaries' aggregate coinsurance liabilities have increased at the same rate as part B benefit expenditures, about 15 percent annually. (The coinsurance rate has remained constant at 20 percent.)

The net effect of all these factors on beneficiary out-of-pocket costs has been as follows. Medicare has paid an increasing fraction of the total physician bill (up from 53 percent in 1977 to 61 percent in 1987). However, because total physician expenditures have risen so much, beneficiaries have had significant increases in out-of-pocket costs (even

though they represent a smaller fraction of total costs). These out-of-pocket costs include premiums paid to both Medicare and supplemental (Medigap) insurers as well as amounts paid directly to physicians.

Under the fee schedule, some beneficiaries would pay more coinsurance, while others would pay less, depending on the effects of the fee schedule in their fee schedule area and the mix of services they receive. Typically, coinsurance for visits and consultations would increase, while coinsurance for surgical and imaging services would decrease. On the other hand, virtually all beneficiaries who receive services from nonparticipating physicians would benefit from the more stringent balance billing limits. And, the numbers of participating physicians and assigned claims would likely increase as more physicians find the higher payment rates available to participating physicians outweighing the possibility for income enhancement through balance billing.

A simulation done with 1987 data in conjunction with the October 1989 Report to Congress: Medicare Physician Payment, under assumptions similar although not identical to those later enacted into law, showed that while the percentage of beneficiaries who have coinsurance liability from 0 to \$100 would decrease slightly and the percentage with liability from \$101 to \$250 would increase slightly, there would be no appreciable change in the percentage with liability of \$500 or more. A more recent HCFA simulation that applied a 115 percent balance billing limit to 1988 claims data (without fee schedule effects) predicted that total balance billing would be reduced by approximately two-thirds—more than offsetting the slight increases in coinsurance for the typical beneficiary. Balance billing of more than \$1,000 per year would be almost eliminated and 90 percent of beneficiaries who pay balance bills would pay less than \$100 (as opposed to 74 percent currently). Based on the Report to Congress simulation, beneficiary cost sharing would be sharply decreased by the effects of the fee schedule and the billing limit changes. (This simulation assumed the old law deductible of \$75 and a 120 percent balance billing limit.) The percent of beneficiaries with total liability of over \$1000 for physician services would be reduced from approximately 5 percent to approximately 1 percent and there would also be decreases in the percentages with liability in the \$250 to \$500 range and in the \$501 to \$1,000

range. None of these simulations estimated the likely increase in assignment rates under the new billing limits, which would make the amounts of balance billing even smaller.

In a Summer 1990 article in *Inquiry*, Janet B. Mitchell and Terri Menke analyzed possible effects of the physician fee schedule and balance billing limit on beneficiary out-of-pocket costs, using their own simulation model (derived in part from work done by the PPRC staff). Using somewhat different assumptions from the HCFA models and a 1986 data base, they reached conclusions similar to those listed above—the slight increases in coinsurance were more than offset by large decreases in balance billing for most beneficiaries. In addition, they did some analysis of the effects by beneficiary subgroup. Two points seem noteworthy. First, they observed that since primary care (usually physician visits) makes up a large proportion of Medicare billings in rural areas, coinsurance increases for visits under the fee schedule may hit harder in some rural areas (where historical charges were lower than the new fee schedule amounts). However, balance billing is also more prevalent in rural areas and thus rural beneficiaries may benefit disproportionately from the new balance billing limit.

A second insight provided by Mitchell and Menke is that the balance billing limits, which assist beneficiaries in all demographic subgroups, constitute a sort of "catastrophic coverage program" for high cost patients. Their simulations show that patients with multiple hospital admissions may experience decreases in out-of-pocket costs averaging about 30 percent, reducing their costs by \$700 to \$800. This point is supported by our simulation data cited above, which showed sharp decreases in the numbers of beneficiaries with balance billing liability of \$1000 or more under a 115 percent limit.

Finally, some have hypothesized that beneficiaries will further benefit from implementation of the fee schedule because it may equalize incentives to physicians across procedures. On the basis of revenues, physicians should be more financially neutral in choosing procedures. This could result in more appropriate care being furnished to Medicare beneficiaries. We welcome

comments on the question of whether shifts in the services provided to beneficiaries are likely to result from implementation of the fee schedule and, if so, what impact this might have on patient care.

3. Effects on Carriers

The major costs and workloads associated with the transition to the physician fee schedule and balance billing limits are incurred in the first two years for systems changes and the need for increased capacity to train providers and respond to beneficiary inquiries. Ongoing carrier costs associated with maintenance of the fee schedule and balance billing limits are expected to be minimal.

In FY 1991, carriers will spend an estimated \$38.5 million on activities related to implementation of these two physician payment provisions. Limiting charge instructions were implemented in January 1991. Carriers were allocated \$1.85 million for responding to beneficiary inquiries related to balance billing. In addition, \$9.1 million is expected to be expended for professional relations (carrier communication with physicians and physician organizations). The major portion of additional funds needed by carriers to implement the physician fee schedule is the \$22.9 million to be spent on standardizing coding conventions, developing new claims processing software, calculating historical payment amounts for the transition, standardizing the global surgical definition and other standardization requirements.

In FY 1992, funds would also be needed to complete the standardization of coding conventions, the global surgical package, and other claims processing changes. In addition, when the fee schedule becomes effective on January 1, 1992, there would be costs associated with additional pre-payment and post-payment monitoring. These costs are expected to total \$11.6 million in FY 1992. Responding to beneficiary inquiries would cost an estimated \$3.7 million and professional relations an estimated \$11.3 million. Thus FY 1992 carrier costs for implementation of the two provisions would be \$26.6 million.

Finally, during FY 1993 through FY 1996 there would be some small continuing costs for the carriers. Programming changes to accommodate

the annual fee schedule update would cost an estimated \$0.1 million per year. Monitoring of standardized payment policies and balanced billing would cost \$5.7 million per year. Total costs per year associated with the fee schedule and balance billing limit during this period would be \$5.8 million.

B. Rural Hospital Impact Statement

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a proposed rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of sections 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This proposed rule, which implements the fee schedule for physician payment and the limiting charge, would have little direct effect on payments to rural hospitals, since this rule would change only payments made to physicians and certain other practitioners under part B of the Medicare program and would make no change in payments to hospitals under part A. However, widespread changes in physician payments with differential effects by geographic area and specialty could have an indirect effect (both positive and negative) on some rural hospitals. In particular, the limits on outpatient department radiology and diagnostic services could be affected. Because of the interaction of the effects of the RVUs, the GAF, and the elimination of specialty differentials, it is virtually impossible to generalize about the impact of the fee schedule on rural hospitals. It should be noted, however, that payment differentials between urban and rural physicians would be much narrower than under the current CPR charge payment system and would exist only to the extent justified by the cost of the practice index. This should make it less likely that physicians would leave rural areas to relocate to urban areas solely to receive higher fees for procedures from Medicare. Moreover, the newly increased HMSA bonus payments would also provide an incentive for physicians to continue practicing in many rural areas.

TABLE 1.—PHYSICIAN FEE SCHEDULE IMPACT BY SPECIALTY

Percent change in allowed charges for fee schedule relative to CPR	Specialty				Percent increase in total budget outlays under fee schedule **	
	Year 1 (1992) change in:		Year 5 (1996) change in:		Avg. annualized	Cumulative
	Payments per service	Payments*	Payments per service	Payments*		
All physician specialties.....	-3	0	-16	-6	10	63
Family practice.....	13	14	15	17	15	103
General practice.....	14	15	14	16	15	101
Cardiology.....	-5	-2	-17	-8	10	60
Dermatology.....	-2	-1	-15	-7	10	62
Internal medicine.....	0	0	-3	-1	11	72
Gastroenterology.....	-7	-2	-25	-11	9	54
Nephrology.....	-4	-1	-15	-7	10	62
Neurology.....	-4	-1	-9	-4	11	66
Psychiatry.....	-9	-3	-5	-2	11	69
Pulmonary.....	-4	-1	-8	-4	11	67
Urology.....	-4	-1	-15	-7	10	62
Radiology.....	-6	-2	-32	-14	8	49
Anesthesiology.....	-8	-3	-35	-16	8	46
Pathology.....	-6	-2	-30	-14	8	50
General Surgery.....	-5	-2	-20	-9	10	58
Neurosurgery.....	-6	-2	-25	-11	9	54
Ophthalmology.....	-8	-3	-35	-16	8	47
Orthopedic Surgery.....	-6	-2	-19	-9	10	59
Otolaryngology.....	2	3	-4	-2	11	70
Plastic Surgery.....	-6	-2	-17	-8	10	60
Thoracic Surgery.....	-7	-2	-31	-14	8	50
Clinics.....	-1	0	-11	-5	11	65
Optometry.....	13	14	12	14	15	97
Chiropractic.....	-8	-3	-14	-6	10	63
Podiatry.....	5	6	16	18	15	105

* Includes changes in payments per service as well as anticipated volume/intensity responses. See text.

** Incorporates changes in payment per service and anticipated volume/intensity responses to payment changes for that specialty.

In addition, for each specialty, we have assumed the same volume/intensity baseline, growth in patient population, and payment updates.

Note: All estimates based on assumption that all submitted charges would be at or above the fee schedule payment amounts.

TABLE 2.—GAINS AND LOSSES BY SPECIALTY RELATIVE TO THE NATIONAL AVERAGE

Specialty	Percentage Gains and Losses Relative to the National Average			
	Year 1 (1992) change in:		Year 5 (1996) change in:	
	Payments per service	Payments*	Payments per service	Payments*
All physician specialties.....	0	0	0	0
Family Practice.....	16	14	37	24
General Practice.....	18	15	36	23
Cardiology.....	-3	-2	-1	-2
Dermatology.....	0	-1	1	-1
Internal medicine.....	2	0	16	5
Gastroenterology.....	-4	-2	-10	-6
Nephrology.....	-1	-1	1	-1
Neurology.....	-1	-1	8	2
Psychiatry.....	-7	-3	13	4
Pulmonary.....	-1	-1	9	2
Urology.....	-2	-1	1	-1
Radiology.....	-3	-2	-19	-9
Anesthesiology.....	-5	-3	-22	-11
Pathology.....	-4	-2	-17	-8
General Surgery.....	-2	-2	-5	-3
Neurosurgery.....	-4	-2	-10	-6
Ophthalmology.....	-6	-3	-22	-10
Orthopedic Surgery.....	-4	-2	-3	-3
Otolaryngology.....	5	3	-14	4
Plastic Surgery.....	-3	-2	-1	-2
Thoracic Surgery.....	-5	-2	-18	-9
Clinics.....	2	0	7	1
Optometry.....	16	14	33	21
Chiropractic.....	-6	-3	3	-1
Podiatry.....	8	6	39	25

* Includes changes in payments per service as well as anticipated volume/intensity responses. See text.

Note: All estimates based on assumption that all submitted charges would be at or above the fee schedule payment amounts.

TABLE 3.—PHYSICIAN FEE SCHEDULE IMPACT BY STATE

State	Percent change in allowed charges for fee schedule relative to CPR				Percent increase in total budget outlays under fee schedule **	
	Year 1 (1992) change in:		Year 5 (1996) change in:		Avg. Annualized	Cumulative
	Payments per service	Payments *	Payments per service	Payments *	1991-1996	1991-1996
All States	-3	-3	-16	-6	10	63
Alabama	-3	-1	-16	-7	10	62
Alaska	-7	-2	-23	-9	9	57
Arizona	-7	-2	-21	-9	10	58
Arkansas	-1	1	-16	-7	10	62
California	-6	-2	-21	-9	10	58
Colorado	2	4	-3	-1	11	72
Connecticut	-5	-2	-16	-7	10	62
Delaware	-1	1	-14	-6	10	64
District of Columbia	-4	-2	-15	-6	10	62
Florida	-7	-2	-25	-10	9	55
Georgia	-2	0	-16	-7	10	62
Hawaii	-9	-3	-22	-9	10	58
Idaho	2	4	-6	-3	11	69
Illinois	-2	0	-14	-6	10	63
Indiana	-1	1	-12	-5	11	65
Iowa	1	3	-4	-2	11	71
Kansas	0	2	-13	-6	10	64
Kentucky	0	2	-11	-5	11	65
Louisiana	-3	-1	-17	-7	10	61
Maine	0	2	-11	-5	11	66
Maryland	-5	-2	-19	-8	10	60
Massachusetts	-3	-1	-13	-6	10	64
Michigan	0	2	-6	-3	11	69
Minnesota	4	6	-6	-2	11	69
Mississippi	2	4	-2	0	12	74
Missouri	0	2	-10	-4	11	66
Montana	-1	1	-13	-5	10	64
Nebraska	-3	-1	-10	-4	11	66
Nevada	-7	-3	-25	-10	9	55
New Hampshire	2	4	-5	-2	11	70
New Jersey	-1	1	-13	-6	10	64
New Mexico	-3	-1	-19	-8	10	60
New York	-2	0	-13	-5	10	64
North Carolina	0	2	-14	-6	10	64
North Dakota	-2	0	-15	-6	10	63
Ohio	-2	0	-16	-7	10	62
Oklahoma	-6	-2	-14	-6	10	63
Oregon	-2	0	-13	-5	10	64
Pennsylvania	-2	0	-14	-6	10	64
Rhode Island	0	2	-10	-4	11	66
South Carolina	1	3	-8	-3	11	68
South Dakota	1	3	-10	-4	11	66
Tennessee	1	3	-13	-5	10	64
Texas	-3	-1	-21	-9	10	58
Utah	1	3	-6	-3	11	69
Vermont	1	3	-10	-4	11	66
Virginia	0	2	-9	-4	11	67
Washington	-2	0	-12	-5	11	65
West Virginia	-2	0	-17	-7	10	61
Wisconsin	-1	1	-12	-5	11	65
Wyoming	2	4	-4	-2	11	71

*Includes changes in payments per service as well as anticipated volume/intensity. See text.

**Incorporates changes in payment per service and anticipated volume/intensity responses to payment changes for that state. In addition, for each state, we have assumed the same volume/intensity baseline, growth in patient population, and payment updates.

Note: All estimates based on assumption that all submitted charges would be at or above the fee schedule payment amounts.

TABLE 4.—GAINS AND LOSSES BY STATE RELATIVE TO THE NATIONAL AVERAGE

State	Percentage Gains and Losses Relative to the National Average			
	Year 1 (1992) change in:		Year 5 (1996) change in:	
	Payments per service	Payments *	Payments per service	Payments *
All States	0	0	0	0
Alabama	0	-1	1	0
Alaska	-4	-2	-7	-3
Arizona	-4	-2	-5	-3
Arkansas	2	1	1	0
California	-4	-2	-6	-3
Colorado	5	4	16	6

TABLE 4.—GAINS AND LOSSES BY STATE RELATIVE TO THE NATIONAL AVERAGE—Continued

State	Percentage Gains and Losses Relative to the National Average			
	Year 1 (1992) change in:		Year 5 (1996) change in:	
	Payments per service	Payments *	Payments per service	Payments *
Connecticut	-2	-2	0	0
Delaware	2	1	3	1
District of Columbia	-2	-2	1	0
Florida	-5	-2	-10	-4
Georgia	1	0	0	0
Hawaii	-6	-3	-7	-3
Idaho	4	4	12	4
Illinois	1	0	2	0
Indiana	2	1	5	1
Iowa	4	3	15	5
Kansas	3	2	4	1
Kentucky	3	2	6	2
Louisiana	0	-1	-1	-1
Maine	3	2	7	2
Maryland	-2	-2	-3	-2
Massachusetts	0	-1	4	1
Michigan	3	2	12	4
Minnesota	6	6	13	4
Mississippi	5	4	17	7
Missouri	3	2	8	2
Montana	2	1	4	1
Nebraska	0	-1	8	2
Nevada	-5	-3	-10	-4
New Hampshire	5	4	13	5
New Jersey	1	1	4	1
New Mexico	0	-1	-3	-2
New York	1	0	4	1
North Carolina	2	2	3	1
North Dakota	1	0	2	0
Ohio	0	0	1	0
Oklahoma	-3	-2	3	1
Oregon	0	0	4	1
Pennsylvania	0	0	3	1
Rhode Island	3	2	8	3
South Carolina	4	3	10	3
South Dakota	4	3	7	2
Tennessee	4	3	5	1
Texas	0	-1	-5	-3
Utah	4	3	12	4
Vermont	4	3	7	2
Virginia	3	2	9	3
Washington	1	0	5	2
West Virginia	0	0	-1	-1
Wisconsin	1	1	6	2
Wyoming	5	4	15	5

* Includes changes in payments per service as well as anticipated volume/intensity responses. See text.

Note: All estimates based on assumption that all submitted charges would be at or above the fee schedule payment amounts.

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health maintenance organizations (HMO), Health professions, Kidney diseases, Laboratories, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 415

Administrative practice and procedure, Health facilities, Health professions, Medicare, physicians, Reporting and recordkeeping requirements.

42 CFR chapter IV would be amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart E—Criteria for Determination of Reasonable Charges; Reimbursement for Services of Hospital Interns, Residents, and Supervising Physicians

A. Part 405, subpart E, is amended as set forth below:

1. The authority citation for subpart E is revised to read as follows:

Authority: Secs. 1102, 1814(b), 1832, 1833(a), 1834(b), 1842 (b) and (h), 1848, 1861 (b) and (v), 1862(a)(14), 1866(a), 1871, 1881, 1886, 1887, and 1889 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395k, 13951(a), 1395m(b), 1395u (b) and (h), 1395w-

4, 1395x (b) and (v), 1395y(a)(14), 1395cc(a), 1395hh, 1395rr, 1395ww, 1395xx, and 1395zz).

2. In § 405.502, paragraph (f) is revised to read as follows:

§ 405.502 Criteria for determining reasonable charges.

* * * * *

(f) Determining payments for certain physician services furnished in outpatient hospital settings—

(1) General rule. If physician services of the type routinely furnished in physicians' offices are furnished in outpatient hospital settings, carriers determine the fee schedule amount for those services by applying the limits described in paragraph (f)(5) of this section.

(2) *Definition.* As used in this paragraph (f), *outpatient settings* include the following facilities:

- (i) Hospital outpatient departments, including clinics and emergency rooms.
- (ii) Comprehensive outpatient rehabilitation facilities.

(3) *Services covered by limits.* HCFA establishes a list of services routinely furnished in physicians' offices nationally. Services furnished at least 50 percent in physicians' offices are subject to this limit.

(4) *Services excluded from limits.* The limits established under this paragraph do not apply to the following:

- (i) Rural health clinic services.
- (ii) Surgical services included on the ambulatory surgical center list of procedures published under § 416.65(c) of this chapter.
- (iii) Anesthesiology services and diagnostic and therapeutic radiology services.

(5) *Limit on services in an outpatient setting.* For services subject to the limit on services in an outpatient setting, the carrier applies the limit by reducing the practice expense RVU for a service by 50 percent.

(6) *Application of limits.* Payment for physician services of the type described in paragraph (f)(3) of this section that are furnished in an outpatient setting is the lower of the actual charge or the payment amount determined after applying the limit to the practice expense RVU as described in paragraph (f)(5) of this section.

* * * * *

3. In § 405.509, a new paragraph (c) is added to read as follows:

§ 405.509 Determining the inflation-indexed charge.

* * * * *

(c) The inflation-indexed charge does not apply to any services, supplies, or equipment furnished after December 31, 1991, that are covered under or limited by the fee schedule for physicians' services established under section 1848 of the Act and part 415 of this chapter. These services are subject to the Medicare Economic Index described in § 415.30 of this chapter.

4. Sections 405.521 through 405.524 are revised to read as follows:

§ 405.521 Services of attending physicians supervising interns and residents.

(a) *Basic rules.* (1) Attending physicians' services furnished to beneficiaries in a teaching setting are covered under Medicare Part B; and

(2) The payment for these services is on the same fee schedule basis as other physician services except in those hospitals that have elected cost

reimbursement under paragraph (d)(2) of this section.

(b) *Physician direction requirements.*

(1) Payment on the basis of the physician fee schedule applies to the professional services furnished to a beneficiary by the attending physician when the attending physician furnishes personal and identifiable direction to interns or residents who are participating in the care of the patient.

(2) In the case of major surgical procedures and other complex and dangerous procedures or situations, the attending physician must personally supervise the residents and interns whom the physician involves in the care of the patients.

(3) Part B payment may be made for the services of an attending physician who involves residents and interns in the care of a patient only if the physician assumes and fulfills the same responsibilities for this patient as for other paying patients.

(4) The carrying out by the physician of these responsibilities is demonstrated by actions such as: Reviewing the patient's history and physical examination and personally examining the patient within a reasonable period after admission; confirming or revising diagnosis; determining the course of treatment to be followed; ensuring that any supervision needed by the interns and residents is furnished; and making frequent reviews of the patient's progress.

(c) *Billing procedures.* (1) Charges for the services of the attending physician may be billed either directly by him or by the hospital under arrangements between the physicians and the hospital.

(2) In either case, the amount payable is determined using the same criteria that are used in applying the physician fee schedule to services that the physician furnishes to other patients. (The physician fee schedule rules are set forth in part 415 of this chapter.)

(d) *Payment to the hospital.* (1) For services to patient that involve the participation of residents or interns, the hospital can receive payment for an appropriate share of the compensation it pays its residents and interns as described in § 413.86 of this chapter.

(2) A hospital with an approved teaching program may elect to receive payment on a reasonable cost basis for the direct medical and surgical services of its physicians in lieu of any payment on a reasonable charge or fee schedule basis that might otherwise be payable for these services.

(3) A hospital may elect to receive cost reimbursement only if—

(i) All physicians who furnish Medicare-covered services in the

hospital agree not to bill charges for these services; or

(ii) All the physicians are employees of the hospital and as a condition of employment are precluded from billing for these services.

(4) If the requirements of paragraph (d)(3) of this section are met, the payment provisions of § 405.465 apply.

(5) For cost reporting periods beginning after June 30, 1985, a teaching hospital that elects payment for the direct medical and surgical services of its physicians in accordance with paragraph (d)(2) of this section must, for purposes of calculating the per resident amounts described in § 413.86(e) of this chapter, remove from its graduate medical education base period costs, as defined in § 413.86(d) of this chapter, those costs relating to the supervision of interns and residents in approved programs related to the care of individual patients.

(e) Nothing in this section restricts the disposition of payments received either from Medicare or from beneficiaries.

§ 405.522 Interns' and residents' services in approved teaching programs.

(a) *Approved teaching programs.* Title XVIII of the Act recognizes residency programs in providers that are duly approved in their respective fields by the Accreditation Council for Graduate Medical Education of the American Medical Association, by the Committee on Hospitals of the Bureau of Professional Education of the American Osteopathic Association, by the Council on Dental Education of the American Dental Association, or, for provider cost reporting periods beginning after December 31, 1972, by the Council on Podiatric Medicine Education of the American Podiatric Medical Association.

(b) *Basis for payment.* (1) Services of interns and residents in these approved programs furnished in hospitals are explicitly excluded from the definition of "physicians' services" and are not payable as such. These services are covered as hospital services. This exclusion applies whether or not the intern or resident is authorized to practice as a physician under the laws of the State in which the intern or resident performs the services.

(2) Medicare pays for the costs of approved residency programs in hospitals and hospital-based providers as set forth in § 413.86 of this chapter. Medicare pays for the cost of the services of interns and residents, specifically as a component of allowable costs defined by the principles of

payment for provider costs set forth in § 413.85 of this chapter.

(3) For purposes of payment for services of interns and residents in accordance with these principles, recording and reporting by the hospital of the specific services furnished to individual beneficiaries is not necessary.

§ 405.523 Interns' and residents' services not in approved teaching programs.

(a) *Payment under Medicare Part B.* The services of a hospital resident or intern who is not under an approved hospital teaching program are paid to the hospital on a reasonable cost basis under Medicare Part B. Even if these services are furnished to inpatients, the cost of the services is not an allowable cost under Medicare Part A, but is allowable under Medicare Part B. For purposes of this section, these services include services of a physician employed by the hospital who is authorized to practice only in a hospital setting.

(b) *Amount of payment.* Medicare Part B payment for services discussed in paragraph (a) of this section is made to the hospital in an amount of 80 percent of the reasonable cost of services minus any applicable deductible amount. The beneficiary incurs the expense of the deductible and coinsurance amounts as determined on the basis of the hospital's charges to the beneficiary for its services that are covered under Medicare Part B.

§ 405.524 Interns' and residents' services outside the hospital.

(a) *Medicare Part A payment.* Payment is made under Medicare Part A for interns' and residents' services furnished in the following settings that meet the specified requirements:

(1) *Skilled nursing facility.* Payment to a participating SNF may include the cost of services of an intern or resident who is under an approved teaching program in a hospital with which the facility has a transfer agreement under § 405.1133 that provides, in part, for the transfer of patients and the interchange of medical records.

(2) *Home health agency.* A participating home health agency may receive payment for the cost of the services of an intern or resident who is under an approved teaching program of a hospital with which the home health agency is affiliated or under common control when these services are furnished as part of the posthospital home health visits for a Medicare beneficiary. (However, see § 413.86 for the costs of approved residency programs in hospital-based providers.)

(b) *Medicare Part B payment.* Medical services of a resident or intern of a hospital that are furnished by a freestanding skilled nursing facility or home health agency are paid under Medicare Part B on an 80 percent of allowable cost basis if payment is not provided under Medicare Part A.

§§ 405.530-405.533 [Removed]

5. Sections 405.530 through 405.533 are removed.

6. The undesignated centered heading above § 405.550 and §§ 405.553, 405.555, and 405.557 are removed.

7. Sections 405.550 through 405.552, 405.554, 405.556, and 405.580 are transferred from Subpart E to a new Subpart F and revised to read as follows:

Subpart F—Services of Physicians in Providers

Sec.

405.550 Conditions for payment of charges for physician services to patients in providers: General provisions.

405.551 Amount of payment for physician services in providers.

405.552 Conditions for payment: Anesthesiology services.

405.554 Conditions for payment: Radiology services.

405.556 Conditions for payment: Physician laboratory services.

405.580 Conditions for payment: Assistants at surgery in teaching hospitals.

Authority: Secs. 1102, 1814(b), 1832, 1833(a), 1834(b), 1842 (b) and (h), 1848, 1861 (b) and (v), 1862(a) (14), 1866(a), 1871, 1881, 1886, 1887, and 1889 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395k, 1395l(a), 1395m(b), 1395u (b) and (h), 1395w-4, 1395x (b) and (v), 1395y(a)(14), 1395cc(a), 1395hh, 1395rr, 1395ww, 1395xx, and 1395aa).

Subpart F—Services of Physicians in Providers

§ 405.550 Conditions for payment of charges for physician services to patients in providers: General provisions.

(a) *Scope.* This section provides general conditions that must be met in order for services furnished by physicians in providers to be paid for on the basis of the physician fee schedule under this subpart. Section 405.551 sets forth general requirements for determining the amounts of payment for services that meet the conditions of this section. Sections 405.552, 405.554, and 405.556 set forth additional conditions for payment for physician services in the specialties of anesthesiology, radiology, and pathology (laboratory services).

(b) *Conditions for payment for services of physicians to provider patients.* The carrier pays for services of physicians to patients of providers on a fee schedule basis only if the following requirements are met:

(1) The services are personally furnished for an individual patient by a physician.

(2) The services contribute directly to the diagnosis or treatment of an individual patient.

(3) The services ordinarily require performance by a physician.

(4) In the case of anesthesiology, radiology, or laboratory services, the additional requirements in §§ 405.552, 405.554, or 405.556 are met.

(c) *Services of physicians to providers.* If a physician furnishes services in a provider that do not meet the requirements in paragraph (b) of this section but are related to the provision of patient care by the provider, the intermediary will pay for those services, if otherwise covered, under the rules in §§ 405.480 and 405.481 on reasonable cost payment for physician services to providers.

(d) *Effect of billing charges for physician services in a provider—(1)* For services performed by a physician that may be paid under the reasonable cost rules in § 405.480 or § 405.481 or would be paid under those rules except for the prospective payment rules in part 412 of this chapter, neither provider nor physician may seek charge payment from the carrier, beneficiary, or another insurer.

(2) The carrier will not pay on a fee schedule basis for services furnished by a physician to an individual patient if the services do not meet the applicable conditions in paragraph (b) of this section and §§ 405.552, 405.554, and 405.556.

(3) If the physician, the provider, or another entity bills the carrier or the beneficiary for physician services to the provider, as described in section 405.480(a), the provider in which and to which the services were furnished may be considered to have violated its provider participation agreement, and that agreement may be terminated. See part 489 of this chapter for rules governing provider agreements.

(e) *Effect of physician's assumption of operating costs.* If a physician or other entity enters into an agreement (such as a lease or concession) with a provider, under which the physician (or entity) assumes some or all of the operating costs of the provider department in which the physician furnishes physician services in the provider, the following rules apply:

(1) If the conditions set forth in paragraph (b) of this section are met, the carrier pays under the physician fee schedule in part 415 of this chapter.

(2) To the extent the provider incurs a cost reimbursable on a reasonable cost

basis under part 413 of this chapter, the intermediary pays the provider on a reasonable cost basis for the costs associated with producing these services, including overhead, supply, and equipment costs, and services furnished by nonphysician personnel.

(3) The physician (or other entity) is treated as related to the provider within the meaning of § 413.17 of this chapter.

(4) The physician (or other entity) must make its books and records available to the provider and the intermediary as necessary to verify the nature and extent of the costs of the services furnished by the physician (or other entity).

§ 405.551 Amounts of payment for physician services in providers.

(a) *Scope.* The carrier determines amounts of payment for physician services to patients in providers in accordance with the general rules governing fee schedule payment in part 415 of this chapter, except as provided in paragraph (b) of this section.

(b) *Application in certain settings—(1) Teaching hospitals.* In determining whether fee schedule payment should be made for physician services to individual patients in a teaching hospital, the carrier applies the rules in § 405.521 in addition to those in this section.

(2) *Hospital-based ESRD facilities.* In determining the amount of payment for physician services to individual patients furnished in a hospital-based end-stage renal disease (ESRD) facility certified under Subpart U of this part, the carrier applies the rules in § 405.542 instead of those in this section.

§ 405.552 Conditions for payment: Anesthesiology services.

(a) *Services furnished directly or concurrently.* The carrier pays a physician for anesthesiology services furnished to patients in a provider on a fee schedule basis only if the services meet the conditions in § 405.550(b) and the following additional conditions:

- (1) For each patient, the physician—
 - (i) Performs a pre-anesthetic examination and evaluation;
 - (ii) Prescribes the anesthesia plan;
 - (iii) Personally participates in the most demanding procedures in the anesthesia plan, including induction and emergence;
 - (iv) Ensures that any procedures in the anesthesia plan that he or she does not perform are performed by a qualified individual;
 - (v) Monitors the course of anesthesia administration at frequent intervals;

(vi) Remains physically present and available for immediate diagnosis and treatment of emergencies; and

(vii) Provides indicated postanesthesia care.

(2) The physician either performs the procedure directly, without the assistance of an anesthetist, or directs no more than four anesthesia procedures concurrently, and does not perform any other services while he or she is directing the concurrent procedures.

(b) *Supervision of more than four procedures concurrently.* If the physician is involved in furnishing more than four procedures concurrently, or is performing other services while directing the concurrent procedures, the concurrent anesthesia services are physician services to the provider in which the procedures are performed. In these cases, the physician is not required to meet the criteria of paragraphs (a)(1)(iii) and (vii) of this section personally, but must ensure that a qualified individual performs any procedure in which the physician does not personally participate. In these cases, the intermediary pays for the services under the rules in §§ 405.480 and 405.481 on reasonable cost payment for physician services to providers or under the rules in part 412 for payment under the prospective payment system.

§ 405.554 Conditions for payment: Radiology services.

(a) *Services to patients.* The carrier pays for radiology services furnished by a physician to an individual patient on a fee schedule basis only if the services meet the conditions in § 405.550(b) and are identifiable, direct, and discrete diagnostic or therapeutic services to an individual patient, such as interpretation of X-ray plates, angiograms, myelograms, pyelograms, or ultrasound procedures.

(b) *Services to providers.* The carrier does not pay on a fee schedule basis for physician services to the provider (for example, administrative or supervisory services) or for provider services needed to produce the X-ray films or other items that are interpreted by the radiologist. However, the intermediary pays the provider for these services in accordance with § 405.480 for provider costs, and § 405.550(e)(2) for costs borne by a physician, such as under a lease or concession agreement, and part 412 of this chapter for payment under the prospective payment system.

§ 405.556 Conditions for payment charges: Physician laboratory services.

(a) *Physician laboratory services.* The carrier pays for laboratory services

furnished by a physician to an individual patient on a fee schedule basis only if the services meet the conditions for payment in § 405.550(b) and are—

(1) Anatomical pathology services;

(2) Consultative pathology services that meet the requirements in paragraph (b) of this section; or

(3) Services performed by a physician in personal administration of test devices, isotopes, or other materials to an individual patient.

(b) *Consultative pathology services.* For purposes of this section, consultative pathology services must—

- (1) Be requested by the patient's attending physician;
- (2) Relate to a test result that lies outside the clinically significant normal or expected range in view of the condition of the patient;
- (3) Result in a written narrative report included in the patient's medical record; and

(4) Require the exercise of medical judgment by the consultant physician.

(c) *Independent laboratory services furnished to hospital inpatients.* Laboratory services furnished to a hospital inpatient by an independent laboratory (as defined in § 488.52) are paid on a fee schedule basis under this subpart only if they are physician laboratory services as described in paragraph (a) of this section. Payment for nonphysician services furnished to a hospital inpatient by an independent laboratory are made by the intermediary to the hospital in accordance with parts 412 and 413 of this chapter.

§ 405.580 Conditions for payment: Assistants at surgery in teaching hospitals.

(a) *Basis, purpose, and scope.* This section describes the conditions under which Medicare pays on a fee schedule basis for the services of an assistant at surgery in a teaching hospital. This section is based on section 1842(b)(6)(D)(i) of the Act and applies only to hospitals with an approved residency program. Except as specified in paragraph (c) of this section, fee schedule payment is not available for assistants at surgery in hospitals with—

- (1) A training program relating to the medical specialty required for the surgical procedure; and
- (2) A qualified individual on the staff of the hospital available to serve as an assistant at surgery.

(b) *Definitions.* "Assistant at surgery" means a physician who actively assists the physician in charge of a case in performing a surgical procedure.

"Teaching hospital" means a hospital with a graduate education program approved as specified in § 405.522(a).

"Team physicians" means a group of physicians, each performing a discrete, unique function integral to the performance of a complex medical procedure that requires the special skills of more than one physician.

"Qualified individual on the staff of the hospital" means a resident in a training program relating to the specialty required for the surgery.

(c) *Conditions for payment for assistants at surgery.* Beginning January 1, 1992, payment on a fee schedule basis is made for the services of an assistant at surgery in a teaching hospital only if the services meet one of the following conditions:

(1) Are required due to exceptional medical circumstances.

(2) Are performed by team physicians needed to perform complex medical procedures.

(3) Constitute concurrent medical care relating to a medical condition that requires the presence of, and active care by, a physician of another specialty during surgery.

(4) Are medically required and are furnished by a physician who is primarily engaged in the field of surgery and the primary surgeon does not use interns and residents in the surgical procedures that the surgeon performs (including preoperative and postoperative care).

(5) Are not related to a surgical procedure for which HCFA determines that assistants are used less than 5 percent of the time.

B. Part 415 is added to read as follows:

PART 415—FEE SCHEDULE FOR PHYSICIANS' SERVICES

Subpart A—General Provisions

Sec.

415.1 Basis and scope.

415.2 Definitions.

415.4 Fee schedule areas.

415.20 Formula for computing payment amounts.

415.22 Relative value units (RVUs).

415.24 Review, revision, and addition of RVUs for physician's services.

415.26 Determining the GAF.

415.28 Conversion factors.

415.30 Conversion factor update.

415.32 Payment for services and supplies incident to a physician's service.

415.34 Payment for drugs incident to a physician's service.

415.36 Coding and ancillary policies.

415.38 Adjustment for first 4 years of practice.

415.40 Transition rules.

415.42 Additional rules for anesthesia services.

Sec.

415.44 Limits on actual charges of nonparticipating physicians.

415.46 Physician billing for purchased diagnostic tests.

415.48 Payment for physician assistants' and nurse practitioners' services.

415.50 Payment for certified nurse midwives' services.

415.52 Payment for nurse practitioners' and clinical nurse specialists' services in rural areas.

415.54 Payment of charges for physicians' services to patients in providers.

415.56 Payment for the services of certified registered nurse anesthetists.

415.58 Payment for the therapeutic services of clinical social workers.

Subpart B—[Reserved]

Authority: Secs. 1102, 1832, 1834, 1842, 1848, 1861 (b) and (s), 1862, 1866, and 1871 of the Social Security Act as amended (42 U.S.C. 1302, 1395k, 1395m, 1395u, 1395w-4, 1395x (b) and (s), 1395y, 1395cc, and 1395rr).

Subpart A—General Provisions

§ 415.1 Basis and scope.

This part implements the requirements of section 1848 of the Act by establishing a fee schedule for payment of physicians' services. Section 1848 requires that payment for all physicians' services otherwise payable on a reasonable charge basis be made under the physician fee schedule effective for services furnished after December 31, 1991.

§ 415.2 Definitions.

As used in this part, unless the context indicates otherwise—

CF stands for "conversion factor."

CY stands for "calendar year."

FY stands for "fiscal year."

GAF stands for "geographic adjustment factor."

GPCI stands for "geographic practice cost index."

HCPSCS stands for "HCFA Common Procedure Coding System."

Physicians' services means the following services to the extent that they are covered by Medicare:

(1) Professional services of doctors of medicine and osteopathy (including osteopathic practitioners), doctors of optometry, doctors of podiatry, doctors of dental surgery and dental medicine, and doctors of chiropractic.

(2) Supplies and services covered "incident to" physicians' services (excluding drugs as specified in § 415.34).

(3) Outpatient physical and occupational therapy services if furnished by a person or an entity that is not a Medicare provider of services as defined in § 400.202 of this chapter.

(4) Diagnostic X-ray tests and other diagnostic tests (excluding diagnostic laboratory tests).

(5) X-ray, radium, and radioactive isotope therapy, including materials and services of technicians.

RVU stands for "relative value unit."

§ 415.4 Fee schedule areas.

(a) *General.* Except for the localities described in paragraph (b) of this section, HCFA establishes fee schedule areas that conform to the localities in existence before January 1, 1992.

(b) *Exceptions.* HCFA establishes Statewide fee schedule areas for Nebraska and Oklahoma.

§ 415.20 Formula for computing payment amounts.

Under the formula set forth in section 1848(b)(1) of the Act, the fee schedule payment amount for a service defined as a "physicians' service" in section 1848(j)(3) of the Act and is computed as the product of the following amounts:

(a) The relative value for the service.

(b) The geographic adjustment factor (GAF) for the fee schedule area.

(c) The conversion factor (CF).

§ 415.22 Relative value units (RVUs).

HCFA establishes RVUs for physician work, physician practice expense, and malpractice insurance.

(a) *Physician work RVUs—(1) General rule.* Physician work RVUs are established using a resource-based relative value scale in which the value of the physician's work for a particular service is rated relative to the value of work for other physicians' services.

(2) *Special RVUs for anesthesia and radiology services—(i) Anesthesia services.* The rules for determining RVUs for anesthesia services are set forth in § 415.42.

(ii) *Radiology services.* HCFA bases the RVUs for all radiology services on the relative value scale developed under section 1834(b)(1)(A) of the Act, with appropriate modifications to ensure that the RVUs established for radiology services that are similar or related to other physicians' services are consistent with the RVUs established for those similar or related services.

(b) *Practice expense RVUs.* (1) Practice expense RVUs are computed for each service or class of service by applying average historical practice cost percentages to the average charge by carriers during the base period.

(2) The average practice expense percentage for a service or class of services is computed as follows:

(i) Multiply the average practice expense percentage for each specialty

by the proportion of a particular service or class of service performed by that specialty.

(ii) Add the products for all specialties.

(c) *Malpractice insurance RVUs.* (1) Malpractice insurance RVUs are computed for each service or class of services by applying average malpractice insurance historical practice cost percentages to the average charge allowed by carriers during the base period.

(2) The average malpractice insurance percentage for a service or class of services is computed as follows:

(i) Multiply the average malpractice insurance percentage for each specialty by the proportion of a particular service or class of services performed by that specialty.

(ii) Add all the products for all the specialties.

§ 415.24 Review, revision, and addition of RVUs for physicians' services.

(a) *General rule.* (1) HCFA reviews RVUs for new services and changes in existing RVUs.

(2) HCFA publishes a proposed notice in the *Federal Register* to announce RVUs for new services and changes in existing RVUs for services in HCFA Common Procedure Coding System (HCPCS) levels 1 and 2 and provides an opportunity for public comment no less often than every 5 years. After considering public comments, HCFA publishes a final notice in the *Federal Register* to announce additions or revisions to RVUs.

(3) The RVU additions or revisions for services in HCPCS levels 1 and 2 are effective prospectively for services furnished beginning on the effective date specified in the final notice.

(b) *Interim values for new or revised codes.* (1) *General.* HCFA announces interim changes to the physician fee schedule to incorporate interim RVUs for new services coded under HCPCS levels 1 and 2 and to reflect changes in these HCPCS codes.

(2) *Publication for comment.* HCFA publishes any interim value added or changed under paragraph (b)(1) of this section in the next notice of proposed changes to the physician fee schedule published in accordance with paragraph (a) of this section.

(c) *Values for local codes (HCPCS Level 3).* (1) Carriers establish relative values for local codes for services not included in HCPCS levels 1 or 2.

(2) Carriers must not establish local codes for services that meet the definition of "physician services" in § 415.2 without prior approval from HCFA.

§ 415.26 Determining the GAF.

HCFA establishes a GAF for each service in each fee schedule area.

(a) *Geographic indices.* HCFA uses the following indices to establish the GAF:

(1) An index that reflects one-fourth of the difference between the relative value of physicians' work effort in each of the different fee schedule areas as determined under § 415.22(a) and the national average of that work effort.

(2) An index that reflects the relative costs of the mix of goods and services comprising practice expenses (other than malpractice expenses) in each of the different fee schedule areas as determined under § 415.22(b) compared to the national average of those costs.

(3) An index that reflects the relative costs of malpractice expenses in each of the different fee schedule areas as determined under § 415.22(c) compared to the national average of those costs.

(b) *Class-specific practice cost indices.* If the application of a single index to different classes of services would be substantially inequitable because of differences in the mix of goods and services comprising practice expenses for the different classes of services, more than one index may be established under paragraph (a)(2) of this section.

(c) *Computation of GAF.* The GAF for each fee schedule area is the sum of the physicians' work adjustment factor, the practice expense adjustment factor, and the malpractice cost adjustment factor, as defined in this section:

(1) The geographic physicians' work adjustment factor for a service is the product of the proportion of the total relative value for the service that reflects the RVUs for the work component, and the geographic physicians' work index value established under paragraph (a)(1) of this section.

(2) The geographic practice expense adjustment factor for a service is the product of the proportion of the total relative value for the service that reflects the RVUs for the practice expense component, multiplied by the geographic practice cost index (GPCI) value established under paragraph (a)(2) of this section.

(3) The geographic malpractice adjustment factor for a service is the product of the proportion of the total relative value for the service that reflects the RVUs for the malpractice component, multiplied by the GPCI value established under paragraph (a)(3) of this section.

§ 415.28 Conversion factors.

HCFA establishes CFs in accordance with section 1848(d) of the Act.

(a) *Base-year CFs.* HCFA established the CF for 1992 so that had section 1848 of the Act applied during 1991, it would have resulted in the same aggregate amount of payments for physicians' services as the estimated aggregate amount of these payments in 1991, adjusted by the update for 1992 computed as specified in § 415.30.

(b) *Subsequent CFs.* Beginning January 1, 1993, the CF for each year is equal to the CF for the previous year, adjusted in accordance with § 415.30.

§ 415.30 Conversion factor update.

Unless Congress acts in accordance with section 1848(d)(3)(A) of the Act—

(a) *General rule.* The CF update for a CY equals the Medicare Economic Index increased or decreased by the percent by which the percentage increase in expenditures for physicians' services (or for a particular category of physicians' services, such as surgical services) in the second preceding FY over the third preceding FY exceeds the performance standard rate of increase established for the second preceding FY.

(b) *Downward adjustment.* The downward adjustment may not exceed the following percentages:

- (1) For CYs 1992 and 1993, 2 percent.
- (2) For CYs 1994 and 1995, 2.5 percent.
- (3) For CY 1996 and thereafter, 3 percent.

§ 415.32 Payment for services and supplies incident to a physician's service.

(a) *Medical supplies.* (1) Except as otherwise specified in this paragraph, office medical supplies are considered to be part of a physician's practice expense and payment for them is included in the practice expense portion of the payment to the physician for the medical or surgical service to which they are incidental.

(2) If physician services of the type routinely furnished in provider settings are furnished in a physician's office, separate payment may be made for certain supplies furnished incident to that physician service. For the purpose of this paragraph, provider settings are limited to the following settings:

(i) Hospital inpatient and outpatient departments.

(ii) Ambulatory surgical centers.

(3) HCFA establishes a list of services routinely furnished in a provider setting, based on the services being furnished 50 percent or more of the time in a provider setting.

(4) HCFA establishes the list of supplies for which additional payment

may be made. Payment is only made for medical supplies when these items are disposable and are dedicated to the use of a single beneficiary.

(5) The fee schedule amount for a year is based on estimated average allowed charges for 1991 for the supplies, adjusted by the CF update described in § 415.30 without a geographic adjustment for practice costs.

(b) *Services of nonphysicians that are incident to a physician's service.* Services of nonphysicians that are covered as incident to a physician's service are paid as if the physician had personally furnished the service.

§ 415.34 Payment for drugs incident to a physician's service.

(a) *General.* Payment for drugs incident to a physician's service is not made under the fee schedule.

(b) *Payment rule.* Except as specified in paragraph (d) of this section, payment for drugs furnished incident to a physician's service is limited to 85 percent of the national average wholesale price of the drug as determined by HCFA.

(c) *Payment for high volume drugs.* HCFA identifies high volume drugs or high cost drugs and establishes payment limits for them in instructions to carriers. Payment for these drugs is limited to the lower of the estimated acquisition cost for the drug as determined by HCFA and specified in instructions or 85 percent of the national average wholesale price for the drug.

§ 415.36 Coding and ancillary policies.

(a) *General rule.* HCFA establishes uniform national definitions of services, codes to represent services, and payment modifiers to the codes.

(b) *Specific types of policies.* HCFA establishes uniform national ancillary policies necessary to implement the fee schedule for physicians' services. This includes, but is not limited to, the following policies:

(1) Global surgery policy (for example, post- and pre-operative periods and services, and intra-operative services).

(2) Professional and technical components (for example, payment for services, such as an EEG, which typically comprise a technical component (the taking of the test) and a professional component (the interpretation)).

(3) Payment modifiers (for example, assistant-at-surgery, multiple surgery, bilateral surgery, split surgical global services, team surgery, unusual services, and multiple nursing home visits).

§ 415.38 Adjustment for first 4 years of practice.

(a) *General rule.* Except as specified in paragraph (b) of this section, the fee schedule payment amount must be reduced as specified in paragraph (d) of this section for physicians, physical therapists (PTs), and occupational therapists (OTs), who are in their first through fourth years of practice.

(b) *Exception.* The reduction required in paragraph (d) of this section does not apply to primary care services furnished by physicians as defined in section 1842(i)(4) of the Act or to services furnished by physicians, PTs, or OTs in a rural area as defined in section 1886(d)(2)(D) of the Act that is designated under section 332(a)(1)(A) of the Public Health Service Act as a Health Service Manpower Shortage Area.

(c) *Definition of years of practice.* (1) The first year of practice is the first full CY during the first 6 months of which the physician, PT, or OT furnishes professional services for which payment may be made under Medicare Part B, plus any portion of the prior CY if that prior year does not meet the first 6 months test.

(2) The second, third, and fourth years of practice are the first, second, and third CYs following the first year of practice, respectively.

(d) *Amounts of adjustment.* The fee schedule payment for the service of a new physician, PT, or OT is limited to the following percentages for each of the indicated years:

- (1) First year—80 percent.
- (2) Second year—85 percent.
- (3) Third year—90 percent.
- (4) Fourth year—95 percent.

§ 415.40 Transition rules.

(a) *Adjusted historical payment basis—(1) All services other than radiology and nuclear medicine services.* For all physicians' services other than radiology services, furnished in a fee schedule area, the adjusted historical payment basis is the estimated weighted average prevailing charge applied in the fee schedule area for the service in CY 1991, as determined by HCFA without regard to physician specialty and as adjusted to reflect payments for services below the prevailing charge, adjusted by the update established for CY 1992.

(2) *Radiology services.* For radiology services, the adjusted historical payment basis is the amount paid for the service in the fee schedule area in CY 1991 under the fee schedule established under section 1834(b), adjusted by the update established for CY 1992.

(3) *Nuclear medicine services.* For nuclear medicine services, the adjusted historical payment basis is the amount paid for the service in the fee schedule area in CY 1991 under the fee schedule established under section 6105(b) of Public Law 101-239 and section 4102(g) of Public Law 101-508, adjusted by the update established for CY 1992.

(b) *Adjustment of 1992 payments for physicians' services other than radiology services.* For physicians' services furnished during CY 1992 the following rules apply:

(1) If the adjusted historical payment basis is from 85 percent to 115 percent of the fee schedule amount for the area for services furnished in 1992, payment is at the fee schedule amount.

(2) If the adjusted historical payment basis is less than 85 percent of the fee schedule amount for the area for services furnished in 1992, an amount equal to the adjusted historical payment basis plus 15 percent of the fee schedule amount is substituted for the fee schedule amount.

(3) If the adjusted historical payment basis is greater than 115 percent of the fee schedule amount for the area for services furnished in 1992, an amount equal to the adjusted historical payment basis minus 15 percent of the fee schedule amount is substituted for the fee schedule amount.

(c) *Adjustment of 1992 payments for radiology services.* For radiology services furnished during CY 1992 the following rules apply:

(1) If the adjusted historical payment basis is from 85 percent to 109 percent of the fee schedule amount for the area for services furnished in 1992, payment is at the fee schedule amount.

(2) If the adjusted historical payment basis is less than 85 percent of the fee schedule amount for the area for services furnished in 1992, an amount equal to the adjusted historical payment basis plus 15 percent of the fee schedule amount is substituted for the fee schedule amount.

(3) If the adjusted historical payment basis is greater than 109 percent of the fee schedule amount for the area for services furnished in 1992, an amount equal to the adjusted historical payment basis minus 9 percent of the fee schedule amount is substituted for the fee schedule amount.

(d) *Computation of payments for CY 1993.* For physicians' services subject to the transition rules in CY 1992 and furnished during CY 1993, the carrier pays an amount equal to 75 percent of the amount that would have been paid in the fee schedule area under the 1992 transition rules, adjusted by the amount

of the 1993 update, plus 25 percent of the 1993 fee schedule amount.

(e) *Computation of payments for CY 1994.* For physicians' services subject to the transition rules in CY 1993, and furnished during CY 1994, the carrier pays an amount equal to 87 percent of the amount that would have been paid in the fee schedule area under the 1993 transition rules, adjusted by the amount of the 1994 update, plus 33 percent of the 1994 fee schedule amount.

(f) *Computation of payments for CY 1995.* For physicians' services subject to the transition rules in CY 1994 and furnished during CY 1995, the carrier pays an amount equal to 50 percent of the amount that would have been paid in the fee schedule area under the 1994 transition rules, adjusted by the amount of the 1995 update, plus 50 percent of the 1995 fee schedule amount.

§ 415.42 Additional rules for anesthesia services.

The specific rules of this section apply to payment for physician anesthesia services in addition to the other rules set forth in this part.

(a) *General rules.* (1) Except for the requirement in paragraph (a)(2) of this section, physician anesthesia services are paid in accordance with the formula set forth in § 415.20.

(2) For each anesthesia procedure, there are five relative values used to compute payment for the procedure, depending upon whether the procedure is personally furnished; medically directed as one of two, three, or four concurrent procedures; or medically supervised.

(b) *Physician personally performs anesthesia procedures.* (1) HCFA determines the fee schedule payment for an anesthesia procedure based on the personally performed RVU under one of the following circumstances:

(i) The physician personally performs the entire anesthesia procedure.

(ii) The physician is continuously involved in a single case involving a certified registered nurse anesthetist (CRNA), anesthesiologist assistant (AA), or qualified student nurse anesthetist.

(iii) The physician establishes an attending physician relationship in a single case involving an intern or resident described in § 405.521 of this chapter.

(2) No payment is made under the CRNA fee schedule for the CRNA or AA service unless it is determined to be medically necessary for both the physician and the CRNA or AA to be involved in the case.

(c) *Physician directs anesthesia procedures.* If the physician medically

directs concurrent anesthesia procedures (that meet the conditions for payment set forth in § 405.552) before January 1, 1996, HCFA determines the fee schedule payment for anesthesia procedures based on the applicable RVU assigned to two, three, four, or more than 4 concurrent procedures.

(d) *Payment for medical or surgical services furnished by a physician while furnishing anesthesia services.* (1) Separate payment under the fee schedule is allowed for certain reasonable and medically necessary medical or surgical services furnished by the physician while furnishing anesthesia services to the patient. These medical or surgical services are limited to CPT codes—36101, 36489, 36491, 36620, 36625, 63780, and 93503.

(2) Separate payment is not allowed for other medical or surgical services, such as the pre-anesthesia examination of the patient, pre- or post-operative visits, or usual monitoring functions, that have been included in the anesthesia procedure-specific RVU.

§ 415.44 Limits on actual charges of nonparticipating physicians.

(a) *General rules.* A nonparticipating physician may charge a beneficiary an amount up to the limiting charge described in paragraph (b) of this section.

(b) *Specific limits.* The following requirements pertain to a nonparticipating physician's limiting charge for each specified period:

(1) For CY 1991, the limiting charge is the same percentage (but no more than 25 percent) above the 1991 prevailing charge for nonparticipating physicians as the percentage by which a physician's 1990 maximum actual allowable charge (MAAC) exceeded the 1990 prevailing charge for nonparticipating physicians.

(2) For CY 1991, for most visits and consultations, the limiting charge is the same percentage (but no more than 40 percent) above the 1991 prevailing charge for nonparticipating physicians as the percentage by which a physician's 1990 MAAC exceeded the 1990 prevailing charge for nonparticipating physicians.

(3) For CY 1992, the limiting charge is the same percentage (but no more than 20 percent) above the 1992 fee schedule amount for nonparticipating physicians as the percentage by which the physician's 1991 limiting charge exceeded the 1991 prevailing charge for nonparticipating physicians.

(4) Beginning January 1, 1993, the limiting charge is 115 percent of the fee schedule amount for nonparticipating physicians.

§ 415.46 Physician billing for purchased diagnostic tests.

(a) *General rule.* If a physician bills for a diagnostic test performed by an outside supplier, the payment to the physician less the applicable deductibles and coinsurance may not exceed the lowest of the following amounts:

(1) The supplier's net charge to the physician.

(2) The physician's actual charge.

(3) The fee schedule amount for the test that would be allowed if the supplier billed directly.

(b) *Restriction on payment.* The physician must identify the supplier and indicate the supplier's net charge for the test. If the physician fails to provide this information, HCFA makes no payment to the physician and the physician may not bill the beneficiary.

(1) Physicians who accept Medicare assignment may bill beneficiaries for only the applicable deductibles and coinsurance.

(2) Physicians who do not accept Medicare assignment may not bill the beneficiary more than the payment amount described in paragraph (a) of this section.

§ 415.48 Payment for physician assistants' and nurse practitioners' services.

Allowed amounts for the services of a physician assistant or a nurse practitioner (as described in sections 1861(s)(2)(K) (i) and (ii) of the Act) furnished after December 31, 1991, may not exceed the following limits:

(a) For assistant-at-surgery services, 65 percent of the amount that would be allowed under the physician fee schedule if the assistant-at-surgery service was furnished by a physician.

(b) For services (other than assistant-at-surgery services) furnished in a hospital, 75 percent of the physician fee schedule amount for the service.

(c) For all other services, 85 percent of the physician fee schedule amount for the service.

§ 415.50 Payment for certified nurse midwives' services.

For services furnished after December 31, 1991, allowed amounts under the fee schedule established under section 1833(a)(1)(K) of the Act for the payment of certified nurse midwife services may not exceed 85 percent of the physician fee schedule amount for the service.

§ 415.52 Payment for nurse practitioners' and clinical nurse specialists' services in rural areas.

For services furnished after December 31, 1991, allowed amounts for the services of a nurse practitioner or a

clinical nurse specialist (as described in section 1861(s)(2)(K)(iii) of the Act) may not exceed the following limits:

(a) For services furnished in a hospital (including assistant-at-surgery services), 75 percent of the physician fee schedule amount for the service.

(b) For all other services, 85 percent of the physician fee schedule amount for the service.

§ 415.54 Payment of charges for physicians' services to patients in providers.

(a) *Payment under the physician fee schedule.* In addition to the special conditions for payment in §§ 405.550 through 405.580, HCFA establishes payment for physicians' services to patients in providers under the physician fee schedule in accordance with §§ 415.1 through 415.46.

(b) *Teaching hospitals.* Services furnished by physicians in teaching hospitals may be made on a reasonable cost basis set forth in § 405.465 of this chapter if the hospital exercises the election described in § 405.521(c)(2) of this chapter.

§ 415.56 Payment for the services of certified registered nurse anesthetists.

For services furnished after December 31, 1991, allowed amounts that would otherwise be recognized under § 414.450 of this chapter for the services of a certified registered nurse anesthetist may not exceed the physician fee schedule amount for the service.

§ 415.58 Payment for the therapeutic services of clinical social workers.

For services furnished after December 31, 1991, allowed amounts for the therapeutic services of clinical social workers may not exceed 75 percent of the allowed amounts under the fee schedule established under section 1833(a)(1)(L) of the Act for the services of clinical psychologists.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 11, 1991.

Gail R. Wilensky,
Administrator, Health Care Financing
Administration.

Approved: May 21, 1991.

Louis W. Sullivan,
Secretary.

Addendum A—Technical Documentation/Explanation and Guide to Use of Physician Fee Schedule Tables

As explained in the preamble to this proposed rule, Public Law 101-239 provides that fee schedule payment amounts¹ are the product of three elements—a relative value for the service, a geographic adjustment factor (GAF) for the fee schedule area, and a nationally uniform dollar conversion factor (CF). The law also provides for, in effect, separate adjustment of the work, practice expense, and malpractice components of the total RVUs by a GAF appropriate to that component. (As explained earlier, GPCI values are used to fulfill the statutory requirement for GAFs.) Thus we have developed this working formula for computing a payment amount for a procedure in a fee schedule area:

$$\text{Payment} = [(RVUw \times GPCIw) + (RVUp \times GPCIp) + (RVUm \times GPCIm)] \times CF$$

Where

RVUw = physician work relative value units for the service

RVUp = practice expense relative value units for the service

RVUm = malpractice relative value units for the service

GPCIw = geographic practice cost index value for physician work applicable in the fee schedule area²

¹ As explained in the preamble of the proposed rule, the amount actually payable to a physician would be 80 percent of the actual charge or 80 percent of the fee schedule payment amount, whichever is less. Also, the transition rules for 1992 through 1995 would produce fee schedule amounts for some services in some fee schedule areas different from those produced by the methodology set forth below.

² This value reflects only one-fourth of the variation in physician work, as required by Public Law 101-239.

GPCIp = geographic practice cost index value for practice expense applicable in the fee schedule area
GPCIm = geographic practice cost index value for malpractice applicable in the fee schedule area

CF = uniform national conversion factor

To compute a payment amount for a specific service in a particular fee schedule area using the preliminary estimates computed for this proposed rule, use the listing of HCPCS codes in Addendum 8 to locate that service. Then make a note of the RVUs for work, practice expense, and malpractice for that service. Next use Addendum C to obtain work, practice expense, and malpractice geographic practice cost index (GPCI) for the particular fee schedule area.

Finally, use 26.873 as the uniform national CF. Combining the elements as specified in the formula above will yield an estimated payment amount. For example, to compute the payment amount for skin biopsy (HCPCS code 11100) in Birmingham, Alabama, first located HCPCS code 11100 in Addendum B. Note that the RVUs for work, practice expense, and malpractice are as follows:

Work RVU (RVUw) = 0.52.

Practice expense RVU (RVUp) = 0.55.

Malpractice RVU (RVUm) = 0.04.

Next, locate Birmingham in Addendum C. Note that the GPCI values for work, practice expense, and malpractice are as follows:

Work GPCI (GPCIw) = 0.981.

Practice expense GPCI (GPCIp) = 0.913.

Malpractice GPCI (GPCIm) = 0.824.

Finally, using 26.873 as the uniform national CF, place the values into the formula provided and compute:

$$\text{Payment} = [(RVUw \times GPCIw) +$$

$$(RVUp \times GPCIp) +$$

$$(RVUm \times GPCIm)] \times CF$$

$$\text{Payment} = [(0.52 \times 0.981) + (0.55 \times 0.913) +$$

$$(0.04 \times 0.824)] \times 26.873$$

$$\text{Payment} = [(0.51) + (0.50) + (0.03)] \times 26.873$$

$$\text{Payment} = [1.04] \times 26.873$$

$$\text{Payment} = \$27.95 \text{ (Full Fee Schedule Payment)}$$

This example does not reflect any effects of the transition rule or any payment updates after 1991.

BILLING CODE 4120-01-01

ADDENDUM B - Proposed Relative Value Units (RVUS) for Physician Work, Practice Expense, Malpractice and Total

Modifier definitions:

Anesthesia procedures	AA - physician personally performed procedure
	D2 - two concurrent procedures, medically directed
	D3 - three concurrent procedures, medically directed
	D4 - four concurrent procedures, medically directed
	AD - supervised more than four concurrent procedures
Diagnostic procedures	26 - professional component
	TC - technical component

NOTE: RVUS for practice expense and malpractice for some procedures in this addendum may be revised based on further analyses of data reliability. Asterisks are used to indicate the procedures requiring further analyses.

One asterisk indicates RVUs for practice expense and malpractice that were based on less than 100 allowed services.

Two asterisks indicate RVUs for practice expense and malpractice which we are continuing to examine because of possible data reporting problems.

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
FC400		CONSULT, FOLLOW UP - LEVEL 1	0.50	0.33	0.03	0.86
FC410		CONSULT, FOLLOW UP - LEVEL 2	0.97	0.46	0.03	1.46
FC415		CONSULT, FOLLOW UP - LEVEL 3	1.42	0.70	0.05	2.17
IC0		CONSULT, INITIAL - LEVEL 1	0.60	0.63	0.07	1.30
IC300		CONSULT, INITIAL - LEVEL 2	1.19	0.77	0.08	2.04
IC310		CONSULT, INITIAL - LEVEL 3	1.57	0.97	0.10	2.64
IC320		CONSULT, INITIAL - LEVEL 4	2.31	1.28	0.11	3.70
IC330		CONSULT, INITIAL - LEVEL 5	3.05	1.63	0.14	4.82
IH110		HOSPITAL, INITIAL - LEVEL 1	1.14	0.71	0.08	1.91
IH113		HOSPITAL, INITIAL - LEVEL 2	1.85	1.10	0.09	3.04
IH115		HOSPITAL, INITIAL - LEVEL 3	2.56	1.19	0.09	3.84
OE015		OFFICE VISIT, EST - LEVEL 1	0.19	0.18	0.02	0.39
OE017		OFFICE VISIT, EST - LEVEL 2	0.41	0.29	0.03	0.73
OE019		OFFICE VISIT, EST - LEVEL 3	0.59	0.38	0.03	1.00
OE021		OFFICE VISIT, EST - LEVEL 4	0.94	0.54	0.04	1.52
OE023		OFFICE VISIT, EST - LEVEL 5	1.48	0.81	0.07	2.36
ON005		OFFICE VISIT, NEW - LEVEL 1	0.41	0.38	0.04	0.83
ON007		OFFICE VISIT, NEW - LEVEL 2	0.78	0.48	0.05	1.31
ON009		OFFICE VISIT, NEW - LEVEL 3	1.16	0.55	0.06	1.77
ON011		OFFICE VISIT, NEW - LEVEL 4	1.70	0.79	0.08	2.57
ON013		OFFICE VISIT, NEW - LEVEL 5	2.24	0.88	0.09	3.21
SH200		HOSP, FOLLOW UP - LEVEL 1	0.58	0.39	0.03	1.00
SH210		HOSP, FOLLOW UP - LEVEL 2	0.93	0.46	0.03	1.42
SH215		HOSP, FOLLOW UP - LEVEL 3	1.26	0.60	0.04	1.90
00100	AA	ANESTH, SKIN SURGERY	2.70	1.46	0.46	4.62
00100	D2	ANESTH, SKIN SURGERY	1.76	0.95	0.30	3.01
00100	D3	ANESTH, SKIN SURGERY	1.61	0.87	0.27	2.75
00100	D4	ANESTH, SKIN SURGERY	1.45	0.78	0.26	2.49
00100	AD	ANESTH, SKIN SURGERY	0.78	0.42	0.13	1.33
00102	AA	ANESTH, REPAIR OF CLEFT LIP	3.42	1.85	0.58	5.85
00102	D2	ANESTH, REPAIR OF CLEFT LIP	2.33	1.26	0.40	3.99
00102	D3	ANESTH, REPAIR OF CLEFT LIP	2.10	1.14	0.36	3.60
00102	D4	ANESTH, REPAIR OF CLEFT LIP	1.86	1.01	0.34	3.21
00102	AD	ANESTH, REPAIR OF CLEFT LIP	0.78	0.42	0.13	1.33
00104	AA	ANESTH FOR ELECTROSHOCK	1.37	0.74	0.23	2.34
00104	D2	ANESTH FOR ELECTROSHOCK	1.10	0.60	0.19	1.89
00104	D3	ANESTH FOR ELECTROSHOCK	0.95	0.51	0.16	1.62
00104	D4	ANESTH FOR ELECTROSHOCK	0.79	0.43	0.14	1.36
00104	AD	ANESTH FOR ELECTROSHOCK	0.78	0.42	0.13	1.33
00120	AA	ANESTHESIA FOR EAR SURGERY	3.06	1.67	0.52	5.27
00120	D2	ANESTHESIA FOR EAR SURGERY	2.06	1.11	0.35	3.52
00120	D3	ANESTHESIA FOR EAR SURGERY	1.86	1.01	0.32	3.19
00120	D4	ANESTHESIA FOR EAR SURGERY	1.67	0.90	0.30	2.87
00120	AD	ANESTHESIA FOR EAR SURGERY	0.78	0.42	0.13	1.33
00124	AA	ANESTHESIA FOR EAR EXAM	2.23	1.21	0.39	3.82
00124	D2	ANESTHESIA FOR EAR EXAM	1.53	0.83	0.26	2.62
00124	D3	ANESTHESIA FOR EAR EXAM	1.37	0.74	0.23	2.34
00124	D4	ANESTHESIA FOR EAR EXAM	1.22	0.66	0.22	2.10
00124	AD	ANESTHESIA FOR EAR EXAM	0.78	0.42	0.13	1.33
00126	AA	ANESTH, TYMPANOTOMY	2.23	1.21	0.38	3.82
00126	D2	ANESTH, TYMPANOTOMY	1.53	0.83	0.26	2.62
00126	D3	ANESTH, TYMPANOTOMY	1.37	0.74	0.23	2.34
00126	D4	ANESTH, TYMPANOTOMY	1.22	0.66	0.22	2.10
00126	AD	ANESTH, TYMPANOTOMY	0.78	0.42	0.13	1.33

¹All numeric CPT HCPCS Copyright 1991 American Medical Association

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
00140	AA	ANESTH, PROCEDURES ON EYE	2.51	1.36	0.43	4.30
00140	D2	ANESTH, PROCEDURES ON EYE	1.77	0.96	0.30	3.03
00140	D3	ANESTH, PROCEDURES ON EYE	1.58	0.85	0.27	2.70
00140	D4	ANESTH, PROCEDURES ON EYE	1.38	0.75	0.25	2.38
00140	AD	ANESTH, PROCEDURES ON EYE	0.78	0.42	0.13	1.33
00142	AA	ANESTHESIA FOR LENS SURGERY	2.20	1.19	0.37	3.76
00142	D2	ANESTHESIA FOR LENS SURGERY	1.51	0.82	0.26	2.59
00142	D3	ANESTHESIA FOR LENS SURGERY	1.36	0.74	0.23	2.33
00142	D4	ANESTHESIA FOR LENS SURGERY	1.21	0.65	0.22	2.08
00142	AD	ANESTHESIA FOR LENS SURGERY	0.78	0.42	0.13	1.33
00144	AA	ANESTH, CORNEAL TRANSPLANT	3.37	1.82	0.57	5.76
00144	D2	ANESTH, CORNEAL TRANSPLANT	2.30	1.25	0.39	3.94
00144	D3	ANESTH, CORNEAL TRANSPLANT	2.07	1.12	0.35	3.54
00144	D4	ANESTH, CORNEAL TRANSPLANT	1.84	1.00	0.33	3.17
00144	AD	ANESTH, CORNEAL TRANSPLANT	0.78	0.42	0.13	1.33
00145	AA	ANESTH, VITRECTOMY	3.50	1.89	0.60	5.99
00145	D2	ANESTH, VITRECTOMY	2.37	1.28	0.40	4.05
00145	D3	ANESTH, VITRECTOMY	2.14	1.16	0.37	3.67
00145	D4	ANESTH, VITRECTOMY	1.90	1.03	0.35	3.28
00145	AD	ANESTH, VITRECTOMY	0.78	0.42	0.13	1.33
00147	AA	ANESTHESIA PROCEDURES ON EYE	2.23	1.21	0.36	3.82
00147	D2	ANESTHESIA PROCEDURES ON EYE	1.53	0.83	0.26	2.62
00147	D3	ANESTHESIA PROCEDURES ON EYE	1.37	0.74	0.23	2.34
00147	D4	ANESTHESIA PROCEDURES ON EYE	1.22	0.66	0.22	2.10
00147	AD	ANESTHESIA PROCEDURES ON EYE	0.78	0.42	0.13	1.33
00148	AA	ANESTHESIA FOR EYE EXAM	2.23	1.21	0.36	3.82
00148	D2	ANESTHESIA FOR EYE EXAM	1.53	0.83	0.26	2.62
00148	D3	ANESTHESIA FOR EYE EXAM	1.37	0.74	0.23	2.34
00148	D4	ANESTHESIA FOR EYE EXAM	1.22	0.66	0.22	2.10
00148	AD	ANESTHESIA FOR EYE EXAM	0.78	0.42	0.13	1.33
00160	AA	ANESTH, NOSE, SINUS SURGERY	2.82	1.53	0.48	4.83
00160	D2	ANESTH, NOSE, SINUS SURGERY	1.93	1.04	0.33	3.30
00160	D3	ANESTH, NOSE, SINUS SURGERY	1.74	0.94	0.30	2.98
00160	D4	ANESTH, NOSE, SINUS SURGERY	1.54	0.83	0.28	2.65
00160	AD	ANESTH, NOSE, SINUS SURGERY	0.78	0.42	0.13	1.33
00162	AA	ANESTH, NOSE, SINUS SURGERY	4.07	2.20	0.69	6.96
00162	D2	ANESTH, NOSE, SINUS SURGERY	2.76	1.49	0.47	4.72
00162	D3	ANESTH, NOSE, SINUS SURGERY	2.49	1.35	0.42	4.26
00162	D4	ANESTH, NOSE, SINUS SURGERY	2.22	1.20	0.40	3.82
00162	AD	ANESTH, NOSE, SINUS SURGERY	0.78	0.42	0.13	1.33
00164	AA	ANESTH, BIOPSY OF NOSE	2.23	1.21	0.36	3.82
00164	D2	ANESTH, BIOPSY OF NOSE	1.53	0.83	0.26	2.62
00164	D3	ANESTH, BIOPSY OF NOSE	1.37	0.74	0.23	2.34
00164	D4	ANESTH, BIOPSY OF NOSE	1.22	0.66	0.22	2.10
00164	AD	ANESTH, BIOPSY OF NOSE	0.78	0.42	0.13	1.33
00170	AA	ANESTH, PROCEDURE ON MOUTH	2.75	1.49	0.47	4.71
00170	D2	ANESTH, PROCEDURE ON MOUTH	1.89	1.02	0.32	3.23
00170	D3	ANESTH, PROCEDURE ON MOUTH	1.70	0.92	0.29	2.91
00170	D4	ANESTH, PROCEDURE ON MOUTH	1.50	0.81	0.27	2.58
00170	AD	ANESTH, PROCEDURE ON MOUTH	0.78	0.42	0.13	1.33
00172	AA	ANESTH, CLEFT PALATE REPAIR	3.42	1.85	0.58	5.85
00172	D2	ANESTH, CLEFT PALATE REPAIR	2.33	1.25	0.40	3.99
00172	D3	ANESTH, CLEFT PALATE REPAIR	2.10	1.14	0.36	3.60
00172	D4	ANESTH, CLEFT PALATE REPAIR	1.86	1.01	0.34	3.21
00172	AD	ANESTH, CLEFT PALATE REPAIR	0.78	0.42	0.13	1.33
00174	AA	ANESTH, PHARYNGEAL SURGERY	3.42	1.85	0.58	5.85
00174	D2	ANESTH, PHARYNGEAL SURGERY	2.33	1.26	0.40	3.99

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
00174	D3	ANESTH, PHARYNGEAL SURGERY	2.10	1.14	0.36	3.60
00174	D4	ANESTH, PHARYNGEAL SURGERY	1.86	1.01	0.34	3.21
00174	AD	ANESTH, PHARYNGEAL SURGERY	0.78	0.42	0.13	1.33
00176	AA	ANESTH, PHARYNGEAL SURGERY	4.07	2.20	0.69	6.96
00176	D2	ANESTH, PHARYNGEAL SURGERY	2.76	1.49	0.47	4.72
00176	D3	ANESTH, PHARYNGEAL SURGERY	2.49	1.35	0.42	4.26
00176	D4	ANESTH, PHARYNGEAL SURGERY	2.22	1.20	0.40	3.82
00176	AD	ANESTH, PHARYNGEAL SURGERY	0.78	0.42	0.13	1.33
00190	AA	ANESTH, FACIAL BONE SURGERY	3.29	1.78	0.56	5.63
00190	D2	ANESTH, FACIAL BONE SURGERY	2.15	1.17	0.37	3.70
00190	D3	ANESTH, FACIAL BONE SURGERY	1.97	1.07	0.34	3.38
00190	D4	ANESTH, FACIAL BONE SURGERY	1.77	0.96	0.32	3.05
00190	AD	ANESTH, FACIAL BONE SURGERY	0.78	0.42	0.13	1.33
00192	AA	ANESTH, FACIAL BONE SURGERY	4.07	2.20	0.69	6.96
00192	D2	ANESTH, FACIAL BONE SURGERY	2.76	1.49	0.47	4.72
00192	D3	ANESTH, FACIAL BONE SURGERY	2.49	1.35	0.42	4.26
00192	D4	ANESTH, FACIAL BONE SURGERY	2.22	1.20	0.40	3.82
00192	AD	ANESTH, FACIAL BONE SURGERY	0.78	0.42	0.13	1.33
00210	AA	ANESTH, OPEN HEAD SURGERY	6.01	3.25	1.02	10.28
00210	D2	ANESTH, OPEN HEAD SURGERY	4.15	2.24	0.70	7.09
00210	D3	ANESTH, OPEN HEAD SURGERY	3.72	2.01	0.63	6.36
00210	D4	ANESTH, OPEN HEAD SURGERY	3.29	1.78	0.60	5.67
00210	AD	ANESTH, OPEN HEAD SURGERY	0.78	0.42	0.13	1.33
00212	AA	ANESTH, SKULL DRAINAGE	2.72	1.47	0.46	4.65
00212	D2	ANESTH, SKULL DRAINAGE	1.86	1.02	0.32	3.22
00212	D3	ANESTH, SKULL DRAINAGE	1.89	0.91	0.29	2.89
00212	D4	ANESTH, SKULL DRAINAGE	1.49	0.81	0.27	2.57
00212	AD	ANESTH, SKULL DRAINAGE	0.78	0.42	0.13	1.33
00214	AA	ANESTH, SKULL DRAINAGE	4.27	2.31	0.73	7.31
00214	D2	ANESTH, SKULL DRAINAGE	3.07	1.66	0.52	5.25
00214	D3	ANESTH, SKULL DRAINAGE	2.72	1.47	0.46	4.65
00214	D4	ANESTH, SKULL DRAINAGE	2.37	1.28	0.43	4.08
00214	AD	ANESTH, SKULL DRAINAGE	0.78	0.42	0.13	1.33
00216	AA	ANESTH, HEAD VESSEL SURGERY	7.80	4.22	1.33	13.35
00216	D2	ANESTH, HEAD VESSEL SURGERY	5.45	2.95	0.93	9.33
00216	D3	ANESTH, HEAD VESSEL SURGERY	4.87	2.63	0.83	8.33
00216	D4	ANESTH, HEAD VESSEL SURGERY	4.29	2.32	0.78	7.39
00216	AD	ANESTH, HEAD VESSEL SURGERY	0.78	0.42	0.13	1.33
00218	AA	ANESTH, SPECIAL HEAD SURGERY	6.22	3.37	1.06	10.65
00218	D2	ANESTH, SPECIAL HEAD SURGERY	4.45	2.41	0.76	7.62
00218	D3	ANESTH, SPECIAL HEAD SURGERY	3.95	2.14	0.67	6.76
00218	D4	ANESTH, SPECIAL HEAD SURGERY	3.44	1.86	0.63	5.93
00218	AD	ANESTH, SPECIAL HEAD SURGERY	0.78	0.42	0.13	1.33
00220	AA	ANESTH, SPINAL FLUID SHUNT	4.35	2.36	0.74	7.45
00220	D2	ANESTH, SPINAL FLUID SHUNT	3.21	1.74	0.55	5.50
00220	D3	ANESTH, SPINAL FLUID SHUNT	2.62	1.53	0.48	4.63
00220	D4	ANESTH, SPINAL FLUID SHUNT	2.43	1.32	0.44	4.19
00220	AD	ANESTH, SPINAL FLUID SHUNT	0.78	0.42	0.13	1.33
00222	AA	ANESTH, HEAD NERVE SURGERY	3.42	1.85	0.58	5.85
00222	D2	ANESTH, HEAD NERVE SURGERY	2.33	1.26	0.40	3.99
00222	D3	ANESTH, HEAD NERVE SURGERY	2.10	1.14	0.36	3.60
00222	D4	ANESTH, HEAD NERVE SURGERY	1.86	1.01	0.34	3.21
00222	AD	ANESTH, HEAD NERVE SURGERY	0.78	0.42	0.13	1.33
00300	AA	ANESTH, SKIN SURGERY, NECK	2.82	1.42	0.44	4.68
00300	D2	ANESTH, SKIN SURGERY, NECK	1.83	0.99	0.31	3.13
00300	D3	ANESTH, SKIN SURGERY, NECK	1.63	0.88	0.28	2.79
00300	D4	ANESTH, SKIN SURGERY, NECK	1.44	0.78	0.26	2.48

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
00300	AD	ANESTH, SKIN SURGERY, NECK	0.78	0.42	0.13	1.33
00320	AA	ANESTH, NECK ORGAN SURGERY	2.98	1.61	0.51	5.10
00320	D2	ANESTH, NECK ORGAN SURGERY	2.11	1.14	0.36	3.61
00320	D3	ANESTH, NECK ORGAN SURGERY	1.88	1.02	0.32	3.22
00320	D4	ANESTH, NECK ORGAN SURGERY	1.64	0.89	0.30	2.83
00320	AD	ANESTH, NECK ORGAN SURGERY	0.78	0.42	0.13	1.33
00322	AA	ANESTH, BIOPSY OF THYROID	1.97	1.07	0.34	3.38
00322	D2	ANESTH, BIOPSY OF THYROID	1.30	0.70	0.22	2.22
00322	D3	ANESTH, BIOPSY OF THYROID	1.18	0.64	0.20	2.02
00322	D4	ANESTH, BIOPSY OF THYROID	1.08	0.57	0.19	1.82
00322	AD	ANESTH, BIOPSY OF THYROID	0.78	0.42	0.13	1.33
00350	AA	ANESTH, NECK VESSEL SURGERY	4.97	2.69	0.85	8.51
00350	D2	ANESTH, NECK VESSEL SURGERY	3.52	1.91	0.60	6.03
00350	D3	ANESTH, NECK VESSEL SURGERY	3.13	1.70	0.53	5.36
00350	D4	ANESTH, NECK VESSEL SURGERY	2.75	1.49	0.50	4.74
00350	AD	ANESTH, NECK VESSEL SURGERY	0.78	0.42	0.13	1.33
00352	AA	ANESTH, NECK VESSEL SURGERY	2.33	1.28	0.40	3.99
00352	D2	ANESTH, NECK VESSEL SURGERY	1.69	0.91	0.29	2.89
00352	D3	ANESTH, NECK VESSEL SURGERY	1.49	0.81	0.25	2.55
00352	D4	ANESTH, NECK VESSEL SURGERY	1.30	0.70	0.23	2.23
00352	AD	ANESTH, NECK VESSEL SURGERY	0.78	0.42	0.13	1.33
00400	AA	ANESTH, CHEST SKIN SURGERY	1.89	1.02	0.32	3.23
00400	D2	ANESTH, CHEST SKIN SURGERY	1.26	0.68	0.21	2.15
00400	D3	ANESTH, CHEST SKIN SURGERY	1.14	0.62	0.19	1.95
00400	D4	ANESTH, CHEST SKIN SURGERY	1.02	0.55	0.18	1.75
00400	AD	ANESTH, CHEST SKIN SURGERY	0.78	0.42	0.13	1.33
00402	AA	ANESTH, SURGERY OF BREAST	3.98	2.15	0.66	6.79
00402	D2	ANESTH, SURGERY OF BREAST	2.50	1.35	0.43	4.28
00402	D3	ANESTH, SURGERY OF BREAST	2.30	1.25	0.39	3.94
00402	D4	ANESTH, SURGERY OF BREAST	2.11	1.14	0.38	3.63
00402	AD	ANESTH, SURGERY OF BREAST	0.78	0.42	0.13	1.33
00404	AA	ANESTH, SURGERY OF BREAST	3.31	1.79	0.57	5.67
00404	D2	ANESTH, SURGERY OF BREAST	2.18	1.18	0.37	3.73
00404	D3	ANESTH, SURGERY OF BREAST	1.98	1.07	0.34	3.39
00404	D4	ANESTH, SURGERY OF BREAST	1.79	0.97	0.32	3.08
00404	AD	ANESTH, SURGERY OF BREAST	0.78	0.42	0.13	1.33
00406	AA	ANESTH, SURGERY OF BREAST	6.37	3.45	1.09	10.91
00406	D2	ANESTH, SURGERY OF BREAST	4.53	2.45	0.77	7.75
00406	D3	ANESTH, SURGERY OF BREAST	4.03	2.18	0.69	6.90
00406	D4	ANESTH, SURGERY OF BREAST	3.52	1.91	0.64	6.07
00406	AD	ANESTH, SURGERY OF BREAST	0.78	0.42	0.13	1.33
00410	AA	ANESTH, CORRECT HEART RHYTHM	1.56	0.84	0.26	2.66
00410	D2	ANESTH, CORRECT HEART RHYTHM	1.19	0.64	0.20	2.03
00410	D3	ANESTH, CORRECT HEART RHYTHM	1.03	0.56	0.18	1.77
00410	D4	ANESTH, CORRECT HEART RHYTHM	0.88	0.48	0.16	1.52
00410	AD	ANESTH, CORRECT HEART RHYTHM	0.78	0.42	0.13	1.33
00420	AA	ANESTH, SKIN SURGERY, BACK	2.80	1.51	0.48	4.79
00420	D2	ANESTH, SKIN SURGERY, BACK	1.92	1.04	0.33	3.29
00420	D3	ANESTH, SKIN SURGERY, BACK	1.72	0.93	0.29	2.94
00420	D4	ANESTH, SKIN SURGERY, BACK	1.53	0.83	0.28	2.64
00420	AD	ANESTH, SKIN SURGERY, BACK	0.78	0.42	0.13	1.33
00450	AA	ANESTH, SURGERY OF SHOULDER	2.72	1.47	0.46	4.65
00450	D2	ANESTH, SURGERY OF SHOULDER	1.88	1.02	0.32	3.22
00450	D3	ANESTH, SURGERY OF SHOULDER	1.69	0.91	0.29	2.89
00450	D4	ANESTH, SURGERY OF SHOULDER	1.49	0.81	0.27	2.57
00450	AD	ANESTH, SURGERY OF SHOULDER	0.78	0.42	0.13	1.33
00452	AA	ANESTH, SURGERY OF SHOULDER	3.42	1.85	0.58	5.85

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL (continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
00452	D2	ANESTH, SURGERY OF SHOULDER	2.33	1.26	0.40	3.99
00452	D3	ANESTH, SURGERY OF SHOULDER	2.10	1.14	0.36	3.60
00452	D4	ANESTH, SURGERY OF SHOULDER	1.86	1.01	0.34	3.21
00452	AD	ANESTH, SURGERY OF SHOULDER	0.78	0.42	0.13	1.33
00454	AA	ANESTH, COLLARBONE BIOPSY	1.97	1.07	0.34	3.38
00454	D2	ANESTH, COLLARBONE BIOPSY	1.30	0.70	0.22	2.22
00454	D3	ANESTH, COLLARBONE BIOPSY	1.18	0.64	0.20	2.02
00454	D4	ANESTH, COLLARBONE BIOPSY	1.06	0.57	0.19	1.82
00454	AD	ANESTH, COLLARBONE BIOPSY	0.78	0.42	0.13	1.33
00470	AA	ANESTH, REMOVAL OF RIB	3.24	1.75	0.55	5.54
00470	D2	ANESTH, REMOVAL OF RIB	2.24	1.21	0.38	3.83
00470	D3	ANESTH, REMOVAL OF RIB	2.01	1.09	0.34	3.44
00470	D4	ANESTH, REMOVAL OF RIB	1.77	0.96	0.32	3.05
00470	AD	ANESTH, REMOVAL OF RIB	0.78	0.42	0.13	1.33
00472	AA	ANESTH, CHEST WALL REPAIR	5.36	2.90	0.91	9.17
00472	D2	ANESTH, CHEST WALL REPAIR	3.72	2.01	0.63	6.36
00472	D3	ANESTH, CHEST WALL REPAIR	3.33	1.80	0.57	5.70
00472	D4	ANESTH, CHEST WALL REPAIR	2.94	1.59	0.53	5.06
00472	AD	ANESTH, CHEST WALL REPAIR	0.78	0.42	0.13	1.33
00474	AA	ANESTH, SURGERY OF RIB(S)	6.37	3.45	1.09	10.91
00474	D2	ANESTH, SURGERY OF RIB(S)	4.53	2.45	0.77	7.75
00474	D3	ANESTH, SURGERY OF RIB(S)	4.03	2.18	0.69	6.90
00474	D4	ANESTH, SURGERY OF RIB(S)	3.52	1.91	0.64	6.07
00474	AD	ANESTH, SURGERY OF RIB(S)	0.78	0.42	0.13	1.33
00500	AA	ANESTH, ESOPHAGEAL SURGERY	8.42	4.56	1.43	14.41
00500	D2	ANESTH, ESOPHAGEAL SURGERY	5.77	3.12	0.98	9.87
00500	D3	ANESTH, ESOPHAGEAL SURGERY	5.18	2.80	0.88	8.86
00500	D4	ANESTH, ESOPHAGEAL SURGERY	4.60	2.49	0.83	7.92
00500	AD	ANESTH, ESOPHAGEAL SURGERY	0.78	0.42	0.13	1.33
00520	AA	ANESTH, CHEST PROCEDURE	2.70	1.46	0.46	4.62
00520	D2	ANESTH, CHEST PROCEDURE	1.97	1.07	0.34	3.38
00520	D3	ANESTH, CHEST PROCEDURE	1.74	0.94	0.30	2.98
00520	D4	ANESTH, CHEST PROCEDURE	1.50	0.81	0.27	2.58
00520	AD	ANESTH, CHEST PROCEDURE	0.78	0.42	0.13	1.33
00522	AA	ANESTH, CHEST LINING BIOPSY	2.23	1.21	0.38	3.82
00522	D2	ANESTH, CHEST LINING BIOPSY	1.53	0.83	0.26	2.62
00522	D3	ANESTH, CHEST LINING BIOPSY	1.37	0.74	0.23	2.34
00522	D4	ANESTH, CHEST LINING BIOPSY	1.22	0.66	0.22	2.10
00522	AD	ANESTH, CHEST LINING BIOPSY	0.78	0.42	0.13	1.33
00524	AA	ANESTH, CHEST DRAINAGE	2.23	1.21	0.38	3.82
00524	D2	ANESTH, CHEST DRAINAGE	1.53	0.83	0.26	2.62
00524	D3	ANESTH, CHEST DRAINAGE	1.37	0.74	0.23	2.34
00524	D4	ANESTH, CHEST DRAINAGE	1.22	0.66	0.22	2.10
00524	AD	ANESTH, CHEST DRAINAGE	0.78	0.42	0.13	1.33
00528	AA	ANESTH, CHEST PARTITION VIEW	3.39	1.84	0.58	5.81
00528	D2	ANESTH, CHEST PARTITION VIEW	2.52	1.37	0.43	4.32
00528	D3	ANESTH, CHEST PARTITION VIEW	2.22	1.20	0.38	3.80
00528	D4	ANESTH, CHEST PARTITION VIEW	1.90	1.03	0.35	3.28
00528	AD	ANESTH, CHEST PARTITION VIEW	0.78	0.42	0.13	1.33
00530	AA	ANESTH, PACEMAKER INSERTION	2.57	1.39	0.44	4.40
00530	D2	ANESTH, PACEMAKER INSERTION	1.70	0.92	0.29	2.91
00530	D3	ANESTH, PACEMAKER INSERTION	1.54	0.83	0.26	2.63
00530	D4	ANESTH, PACEMAKER INSERTION	1.38	0.75	0.25	2.38
00530	AD	ANESTH, PACEMAKER INSERTION	0.78	0.42	0.13	1.33
00540	AA	ANESTH, CHEST SURGERY	6.30	3.41	1.07	10.78
00540	D2	ANESTH, CHEST SURGERY	4.50	2.43	0.77	7.70
00540	D3	ANESTH, CHEST SURGERY	3.99	2.16	0.68	6.83

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
00540	D4	ANESTH, CHEST SURGERY	3.48	1.89	0.63	6.00
00540	AD	ANESTH, CHEST SURGERY	0.78	0.42	0.13	1.33
00542	AA	ANESTH, RELEASE OF LUNG	7.80	4.22	1.33	13.35
00542	D2	ANESTH, RELEASE OF LUNG	5.45	2.95	0.93	9.33
00542	D3	ANESTH, RELEASE OF LUNG	4.87	2.63	0.83	8.33
00542	D4	ANESTH, RELEASE OF LUNG	4.29	2.32	0.78	7.39
00542	AD	ANESTH, RELEASE OF LUNG	0.78	0.42	0.13	1.33
00544	AA	ANESTH, CHEST LINING REMOVAL	7.80	4.22	1.33	13.35
00544	D2	ANESTH, CHEST LINING REMOVAL	5.45	2.95	0.93	9.33
00544	D3	ANESTH, CHEST LINING REMOVAL	4.87	2.63	0.83	8.33
00544	D4	ANESTH, CHEST LINING REMOVAL	4.29	2.32	0.78	7.39
00544	AD	ANESTH, CHEST LINING REMOVAL	0.78	0.42	0.13	1.33
00546	AA	ANESTH, LUNG, CHESTWALL SURG	7.80	4.22	1.33	13.35
00546	D2	ANESTH, LUNG, CHESTWALL SURG	5.45	2.95	0.93	9.33
00546	D3	ANESTH, LUNG, CHESTWALL SURG	4.87	2.63	0.83	8.33
00546	D4	ANESTH, LUNG, CHESTWALL SURG	4.29	2.32	0.78	7.39
00546	AD	ANESTH, LUNG, CHESTWALL SURG	0.78	0.42	0.13	1.33
00548	AA	ANESTH, TRACHEA, BRONCHI SURG	7.80	4.22	1.33	13.35
00548	D2	ANESTH, TRACHEA, BRONCHI SURG	5.45	2.95	0.93	9.33
00548	D3	ANESTH, TRACHEA, BRONCHI SURG	4.87	2.63	0.83	8.33
00548	D4	ANESTH, TRACHEA, BRONCHI SURG	4.29	2.32	0.78	7.39
00548	AD	ANESTH, TRACHEA, BRONCHI SURG	0.78	0.42	0.13	1.33
00560	AA	ANESTH, HEART VESSEL REPAIR	7.33	3.97	1.25	12.55
00560	D2	ANESTH, HEART VESSEL REPAIR	5.22	2.83	0.89	8.94
00560	D3	ANESTH, HEART VESSEL REPAIR	4.64	2.51	0.79	7.94
00560	D4	ANESTH, HEART VESSEL REPAIR	4.05	2.19	0.74	6.98
00560	AD	ANESTH, HEART VESSEL REPAIR	0.78	0.42	0.13	1.33
00562	AA	ANESTH, HEART VESSEL REPAIR	10.28	5.57	1.75	17.60
00562	D2	ANESTH, HEART VESSEL REPAIR	7.21	3.90	1.23	12.34
00562	D3	ANESTH, HEART VESSEL REPAIR	6.44	3.49	1.10	11.03
00562	D4	ANESTH, HEART VESSEL REPAIR	5.66	3.06	1.03	9.75
00562	AD	ANESTH, HEART VESSEL REPAIR	0.78	0.42	0.13	1.33
00580	AA	ANESTH, HEART/LUNG TRANSPLANT	10.31	5.58	1.76	17.65
00580	D2	ANESTH, HEART/LUNG TRANSPLANT	7.23	3.91	1.23	12.37
00580	D3	ANESTH, HEART/LUNG TRANSPLANT	6.45	3.49	1.10	11.04
00580	D4	ANESTH, HEART/LUNG TRANSPLANT	5.67	3.07	1.03	9.77
00580	AD	ANESTH, HEART/LUNG TRANSPLANT	0.78	0.42	0.13	1.33
00600	AA	ANESTH, SPINE, CORD SURGERY	5.58	3.03	0.95	9.57
00600	D2	ANESTH, SPINE, CORD SURGERY	3.83	2.08	0.65	6.56
00600	D3	ANESTH, SPINE, CORD SURGERY	3.44	1.88	0.59	5.89
00600	D4	ANESTH, SPINE, CORD SURGERY	3.06	1.65	0.56	5.27
00600	AD	ANESTH, SPINE, CORD SURGERY	0.78	0.42	0.13	1.33
00604	AA	ANESTH, SURGERY OF VERTEBRA	6.37	3.45	1.09	10.91
00604	D2	ANESTH, SURGERY OF VERTEBRA	4.53	2.45	0.77	7.75
00604	D3	ANESTH, SURGERY OF VERTEBRA	4.03	2.18	0.69	6.90
00604	D4	ANESTH, SURGERY OF VERTEBRA	3.52	1.91	0.64	6.07
00604	AD	ANESTH, SURGERY OF VERTEBRA	0.78	0.42	0.13	1.33
00620	AA	ANESTH, SPINE, CORD SURGERY	5.85	3.17	1.00	10.02
00620	D2	ANESTH, SPINE, CORD SURGERY	3.98	2.15	0.68	6.79
00620	D3	ANESTH, SPINE, CORD SURGERY	3.57	1.94	0.61	6.12
00620	D4	ANESTH, SPINE, CORD SURGERY	3.19	1.72	0.56	5.49
00620	AD	ANESTH, SPINE, CORD SURGERY	0.78	0.42	0.13	1.33
00622	AA	ANESTH, REMOVAL OF NERVES	6.37	3.45	1.09	10.91
00622	D2	ANESTH, REMOVAL OF NERVES	4.53	2.45	0.77	7.75
00622	D3	ANESTH, REMOVAL OF NERVES	4.03	2.18	0.69	6.90
00622	D4	ANESTH, REMOVAL OF NERVES	3.52	1.91	0.64	6.07
00622	AD	ANESTH, REMOVAL OF NERVES	0.78	0.42	0.13	1.33

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
00630	AA	ANESTH, SPINE, CORD SURGERY	4.69	2.54	0.80	8.03
00630	D2	ANESTH, SPINE, CORD SURGERY	3.17	1.72	0.54	5.43
00630	D3	ANESTH, SPINE, CORD SURGERY	2.86	1.55	0.49	4.90
00630	D4	ANESTH, SPINE, CORD SURGERY	2.55	1.38	0.46	4.39
00630	AD	ANESTH, SPINE, CORD SURGERY	0.78	0.42	0.13	1.33
00632	AA	ANESTH, REMOVAL OF NERVES	4.07	2.20	0.69	6.96
00632	D2	ANESTH, REMOVAL OF NERVES	2.76	1.49	0.47	4.72
00632	D3	ANESTH, REMOVAL OF NERVES	2.49	1.35	0.42	4.26
00632	D4	ANESTH, REMOVAL OF NERVES	2.22	1.20	0.40	3.82
00632	AD	ANESTH, REMOVAL OF NERVES	0.78	0.42	0.13	1.33
00634	AA	ANESTH FOR CHEMONUCLEOLYSIS	5.36	2.90	0.91	9.17
00634	D2	ANESTH FOR CHEMONUCLEOLYSIS	3.72	2.01	0.63	6.36
00634	D3	ANESTH FOR CHEMONUCLEOLYSIS	3.33	1.80	0.57	5.70
00634	D4	ANESTH FOR CHEMONUCLEOLYSIS	2.94	1.59	0.53	5.06
00634	AD	ANESTH FOR CHEMONUCLEOLYSIS	0.78	0.42	0.13	1.33
00670	AA	ANESTH, SPINE, CORD SURGERY	7.80	4.22	1.33	13.35
00670	D2	ANESTH, SPINE, CORD SURGERY	5.25	2.84	0.89	8.98
00670	D3	ANESTH, SPINE, CORD SURGERY	4.74	2.57	0.81	8.12
00670	D4	ANESTH, SPINE, CORD SURGERY	4.23	2.29	0.77	7.29
00670	AD	ANESTH, SPINE, CORD SURGERY	0.78	0.42	0.13	1.33
00700	AA	ANESTH, ABDOMINAL WALL SURG	2.26	1.23	0.39	3.90
00700	D2	ANESTH, ABDOMINAL WALL SURG	1.45	0.78	0.25	2.48
00700	D3	ANESTH, ABDOMINAL WALL SURG	1.33	0.72	0.23	2.28
00700	D4	ANESTH, ABDOMINAL WALL SURG	1.22	0.66	0.22	2.10
00700	AD	ANESTH, ABDOMINAL WALL SURG	0.78	0.42	0.13	1.33
00702	AA	ANESTHESIA FOR LIVER BIOPSY	2.23	1.21	0.38	3.82
00702	D2	ANESTHESIA FOR LIVER BIOPSY	1.53	0.83	0.26	2.62
00702	D3	ANESTHESIA FOR LIVER BIOPSY	1.37	0.74	0.23	2.34
00702	D4	ANESTHESIA FOR LIVER BIOPSY	1.22	0.66	0.22	2.10
00702	AD	ANESTHESIA FOR LIVER BIOPSY	0.78	0.42	0.13	1.33
00730	AA	ANESTH, ABDOMINAL WALL SURG	2.54	1.37	0.43	4.34
00730	D2	ANESTH, ABDOMINAL WALL SURG	1.79	0.97	0.30	3.06
00730	D3	ANESTH, ABDOMINAL WALL SURG	1.59	0.86	0.27	2.72
00730	D4	ANESTH, ABDOMINAL WALL SURG	1.40	0.76	0.25	2.41
00730	AD	ANESTH, ABDOMINAL WALL SURG	0.78	0.42	0.13	1.33
00740	AA	ANESTH, GI VISUALIZATION	2.10	1.14	0.36	3.60
00740	D2	ANESTH, GI VISUALIZATION	1.57	0.85	0.27	2.69
00740	D3	ANESTH, GI VISUALIZATION	1.37	0.74	0.23	2.34
00740	D4	ANESTH, GI VISUALIZATION	1.18	0.64	0.21	2.03
00740	AD	ANESTH, GI VISUALIZATION	0.78	0.42	0.13	1.33
00750	AA	ANESTH, REPAIR OF HERNIA	2.46	1.33	0.42	4.21
00750	D2	ANESTH, REPAIR OF HERNIA	1.64	0.89	0.29	2.81
00750	D3	ANESTH, REPAIR OF HERNIA	1.49	0.81	0.25	2.55
00750	D4	ANESTH, REPAIR OF HERNIA	1.33	0.72	0.24	2.29
00750	AD	ANESTH, REPAIR OF HERNIA	0.78	0.42	0.13	1.33
00752	AA	ANESTH, REPAIR OF HERNIA	3.11	1.68	0.53	5.32
00752	D2	ANESTH, REPAIR OF HERNIA	2.15	1.18	0.37	3.73
00752	D3	ANESTH, REPAIR OF HERNIA	1.94	1.05	0.33	3.32
00752	D4	ANESTH, REPAIR OF HERNIA	1.71	0.93	0.31	2.95
00752	AD	ANESTH, REPAIR OF HERNIA	0.78	0.42	0.13	1.33
00754	AA	ANESTH, REPAIR OF HERNIA	4.07	2.20	0.69	6.96
00754	D2	ANESTH, REPAIR OF HERNIA	2.76	1.49	0.47	4.72
00754	D3	ANESTH, REPAIR OF HERNIA	2.49	1.35	0.42	4.26
00754	D4	ANESTH, REPAIR OF HERNIA	2.22	1.20	0.40	3.82
00754	AD	ANESTH, REPAIR OF HERNIA	0.78	0.42	0.13	1.33
00756	AA	ANESTH, REPAIR OF HERNIA	4.07	2.20	0.69	6.96
00756	D2	ANESTH, REPAIR OF HERNIA	2.76	1.49	0.47	4.72

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
00756	D3	ANESTH, REPAIR OF HERNIA	2.49	1.35	0.42	4.26
00756	D4	ANESTH, REPAIR OF HERNIA	2.22	1.20	0.40	3.82
00756	AD	ANESTH, REPAIR OF HERNIA	0.78	0.42	0.13	1.33
00770	AA	ANESTH, BLOOD VESSEL REPAIR	7.93	4.29	1.35	13.57
00770	D2	ANESTH, BLOOD VESSEL REPAIR	5.52	2.99	0.94	9.45
00770	D3	ANESTH, BLOOD VESSEL REPAIR	4.93	2.67	0.84	8.44
00770	D4	ANESTH, BLOOD VESSEL REPAIR	4.35	2.36	0.79	7.50
00770	AD	ANESTH, BLOOD VESSEL REPAIR	0.78	0.42	0.13	1.33
00790	AA	ANESTH, SURGERY OF ABDOMEN	3.96	2.15	0.68	6.79
00790	D2	ANESTH, SURGERY OF ABDOMEN	2.71	1.47	0.46	4.64
00790	D3	ANESTH, SURGERY OF ABDOMEN	2.43	1.32	0.42	4.17
00790	D4	ANESTH, SURGERY OF ABDOMEN	2.16	1.17	0.39	3.72
00790	AD	ANESTH, SURGERY OF ABDOMEN	0.78	0.42	0.13	1.33
00792	AA	ANESTH, PART LIVER REMOVAL	6.37	3.45	1.09	10.91
00792	D2	ANESTH, PART LIVER REMOVAL	4.53	2.45	0.77	7.75
00792	D3	ANESTH, PART LIVER REMOVAL	4.03	2.18	0.69	6.90
00792	D4	ANESTH, PART LIVER REMOVAL	3.52	1.91	0.64	6.07
00792	AD	ANESTH, PART LIVER REMOVAL	0.78	0.42	0.13	1.33
00794	AA	ANESTH, PANCREAS REMOVAL	4.95	2.68	0.84	8.47
00794	D2	ANESTH, PANCREAS REMOVAL	3.30	1.79	0.56	5.65
00794	D3	ANESTH, PANCREAS REMOVAL	2.99	1.62	0.51	5.12
00794	D4	ANESTH, PANCREAS REMOVAL	2.68	1.45	0.49	4.62
00794	AD	ANESTH, PANCREAS REMOVAL	0.78	0.42	0.13	1.33
00796	AA	ANESTH, FOR LIVER TRANSPLANT	18.81	10.18	3.20	32.19
00796	D2	ANESTH, FOR LIVER TRANSPLANT	12.51	6.77	2.13	21.41
00796	D3	ANESTH, FOR LIVER TRANSPLANT	11.35	6.14	1.93	19.42
00796	D4	ANESTH, FOR LIVER TRANSPLANT	10.18	5.51	1.85	17.54
00796	AD	ANESTH, FOR LIVER TRANSPLANT	0.78	0.42	0.13	1.33
00800	AA	ANESTH, ABDOMINAL WALL SURG	2.20	1.19	0.37	3.76
00800	D2	ANESTH, ABDOMINAL WALL SURG	1.41	0.77	0.24	2.42
00800	D3	ANESTH, ABDOMINAL WALL SURG	1.30	0.70	0.22	2.22
00800	D4	ANESTH, ABDOMINAL WALL SURG	1.18	0.64	0.21	2.03
00800	AD	ANESTH, ABDOMINAL WALL SURG	0.78	0.42	0.13	1.33
00802	AA	ANESTH, FAT LAYER REMOVAL	2.72	1.47	0.46	4.65
00802	D2	ANESTH, FAT LAYER REMOVAL	1.88	1.02	0.32	3.22
00802	D3	ANESTH, FAT LAYER REMOVAL	1.69	0.91	0.29	2.89
00802	D4	ANESTH, FAT LAYER REMOVAL	1.49	0.81	0.27	2.57
00802	AD	ANESTH, FAT LAYER REMOVAL	0.78	0.42	0.13	1.33
00806	AA	ANESTH, PELVIC VISUALIZATION	3.21	1.74	0.55	5.50
00806	D2	ANESTH, PELVIC VISUALIZATION	2.23	1.21	0.38	3.82
00806	D3	ANESTH, PELVIC VISUALIZATION	1.99	1.08	0.34	3.41
00806	D4	ANESTH, PELVIC VISUALIZATION	1.76	0.95	0.32	3.03
00806	AD	ANESTH, PELVIC VISUALIZATION	0.78	0.42	0.13	1.33
00810	AA	ANESTH, INTESTINE ENDOSCOPY	2.41	1.30	0.41	4.12
00810	D2	ANESTH, INTESTINE ENDOSCOPY	1.83	0.99	0.31	3.13
00810	D3	ANESTH, INTESTINE ENDOSCOPY	1.59	0.86	0.27	2.72
00810	D4	ANESTH, INTESTINE ENDOSCOPY	1.38	0.74	0.25	2.35
00810	AD	ANESTH, INTESTINE ENDOSCOPY	0.78	0.42	0.13	1.33
00820	AA	ANESTH, ABDOMINAL WALL SURG	3.76	2.03	0.64	6.43
00820	D2	ANESTH, ABDOMINAL WALL SURG	2.40	1.30	0.41	4.11
00820	D3	ANESTH, ABDOMINAL WALL SURG	2.20	1.19	0.37	3.76
00820	D4	ANESTH, ABDOMINAL WALL SURG	2.01	1.09	0.37	3.47
00820	AD	ANESTH, ABDOMINAL WALL SURG	0.78	0.42	0.13	1.33
00830	AA	ANESTH, REPAIR OF HERNIA	2.51	1.36	0.43	4.30
00830	D2	ANESTH, REPAIR OF HERNIA	1.87	0.90	0.29	2.86
00830	D3	ANESTH, REPAIR OF HERNIA	1.51	0.82	0.26	2.59
00830	D4	ANESTH, REPAIR OF HERNIA	1.36	0.74	0.25	2.35

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
00830	AD	ANESTH, REPAIR OF HERNIA	0.78	0.42	0.13	1.33
00832	AA	ANESTH, REPAIR OF HERNIA	3.21	1.74	0.55	5.50
00832	D2	ANESTH, REPAIR OF HERNIA	2.23	1.21	0.38	3.82
00832	D3	ANESTH, REPAIR OF HERNIA	1.99	1.08	0.34	3.41
00832	D4	ANESTH, REPAIR OF HERNIA	1.76	0.95	0.32	3.03
00832	AD	ANESTH, REPAIR OF HERNIA	0.78	0.42	0.13	1.33
00840	AA	ANESTH, SURGERY OF ABDOMEN	3.83	2.08	0.65	6.56
00840	D2	ANESTH, SURGERY OF ABDOMEN	2.54	1.37	0.43	4.34
00840	D3	ANESTH, SURGERY OF ABDOMEN	2.30	1.25	0.39	3.94
00840	D4	ANESTH, SURGERY OF ABDOMEN	2.07	1.12	0.37	3.56
00840	AD	ANESTH, SURGERY OF ABDOMEN	0.78	0.42	0.13	1.33
00842	AA	ANESTH, AMNIOCENTESIS	2.23	1.21	0.38	3.82
00842	D2	ANESTH, AMNIOCENTESIS	1.53	0.83	0.26	2.62
00842	D3	ANESTH, AMNIOCENTESIS	1.37	0.74	0.23	2.34
00842	D4	ANESTH, AMNIOCENTESIS	1.22	0.66	0.22	2.10
00842	AD	ANESTH, AMNIOCENTESIS	0.78	0.42	0.13	1.33
00844	AA	ANESTH, PELVIS SURGERY	5.05	2.73	0.86	8.64
00844	D2	ANESTH, PELVIS SURGERY	3.25	1.76	0.55	5.56
00844	D3	ANESTH, PELVIS SURGERY	2.98	1.61	0.51	5.10
00844	D4	ANESTH, PELVIS SURGERY	2.71	1.47	0.49	4.67
00844	AD	ANESTH, PELVIS SURGERY	0.78	0.42	0.13	1.33
00846	AA	ANESTH, HYSTERECTOMY	5.05	2.73	0.86	8.64
00846	D2	ANESTH, HYSTERECTOMY	3.36	1.82	0.57	5.75
00846	D3	ANESTH, HYSTERECTOMY	3.04	1.65	0.52	5.21
00846	D4	ANESTH, HYSTERECTOMY	2.73	1.48	0.50	4.71
00846	AD	ANESTH, HYSTERECTOMY	0.78	0.42	0.13	1.33
00848	AA	ANESTH, PELVIC ORGAN SURG	4.95	2.68	0.84	8.47
00848	D2	ANESTH, PELVIC ORGAN SURG	3.30	1.79	0.56	5.65
00848	D3	ANESTH, PELVIC ORGAN SURG	2.99	1.62	0.51	5.12
00848	D4	ANESTH, PELVIC ORGAN SURG	2.68	1.45	0.49	4.62
00848	AD	ANESTH, PELVIC ORGAN SURG	0.78	0.42	0.13	1.33
00850	AA	ANESTH, CESAREAN SECTION	4.07	2.20	0.69	6.96
00850	D2	ANESTH, CESAREAN SECTION	2.76	1.49	0.47	4.72
00850	D3	ANESTH, CESAREAN SECTION	2.49	1.35	0.42	4.26
00850	D4	ANESTH, CESAREAN SECTION	2.22	1.20	0.40	3.82
00850	AD	ANESTH, CESAREAN SECTION	0.78	0.42	0.13	1.33
00855	AA	ANESTH, HYSTERECTOMY	4.95	2.68	0.84	8.47
00855	D2	ANESTH, HYSTERECTOMY	3.30	1.79	0.56	5.65
00855	D3	ANESTH, HYSTERECTOMY	2.99	1.62	0.51	5.12
00855	D4	ANESTH, HYSTERECTOMY	2.68	1.45	0.49	4.62
00855	AD	ANESTH, HYSTERECTOMY	0.78	0.42	0.13	1.33
00857	AA	ANALGESIA, LABOR & C-SECTION	4.07	2.20	0.69	6.96
00857	D2	ANALGESIA, LABOR & C-SECTION	2.76	1.49	0.47	4.72
00857	D3	ANALGESIA, LABOR & C-SECTION	2.49	1.35	0.42	4.26
00857	D4	ANALGESIA, LABOR & C-SECTION	2.22	1.20	0.40	3.82
00857	AD	ANALGESIA, LABOR & C-SECTION	0.78	0.42	0.13	1.33
00860	AA	ANESTH, SURGERY OF ABDOMEN	3.78	2.05	0.64	6.47
00860	D2	ANESTH, SURGERY OF ABDOMEN	2.51	1.36	0.43	4.30
00860	D3	ANESTH, SURGERY OF ABDOMEN	2.28	1.23	0.39	3.90
00860	D4	ANESTH, SURGERY OF ABDOMEN	2.05	1.11	0.37	3.53
00860	AD	ANESTH, SURGERY OF ABDOMEN	0.78	0.42	0.13	1.33
00862	AA	ANESTH, KIDNEY, URETER SURG	4.35	2.36	0.74	7.45
00862	D2	ANESTH, KIDNEY, URETER SURG	2.90	1.57	0.50	4.97
00862	D3	ANESTH, KIDNEY, URETER SURG	2.63	1.42	0.45	4.50
00862	D4	ANESTH, KIDNEY, URETER SURG	2.36	1.28	0.43	4.07
00862	AD	ANESTH, KIDNEY, URETER SURG	0.78	0.42	0.13	1.33
00864	AA	ANESTH, REMOVAL OF BLADDER	7.38	4.00	1.26	12.64

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPs ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
00864	D2	ANESTH, REMOVAL OF BLADDER	4.52	2.45	0.77	7.74
00864	D3	ANESTH, REMOVAL OF BLADDER	4.21	2.28	0.72	7.21
00864	D4	ANESTH, REMOVAL OF BLADDER	3.90	2.11	0.71	6.72
00864	AD	ANESTH, REMOVAL OF BLADDER	0.78	0.42	0.13	1.33
00866	AA	ANESTH, REMOVAL OF ADRENAL	5.36	2.90	0.91	9.17
00866	D2	ANESTH, REMOVAL OF ADRENAL	3.72	2.01	0.63	6.36
00866	D3	ANESTH, REMOVAL OF ADRENAL	3.33	1.80	0.57	5.70
00866	D4	ANESTH, REMOVAL OF ADRENAL	2.94	1.59	0.53	5.06
00866	AD	ANESTH, REMOVAL OF ADRENAL	0.78	0.42	0.13	1.33
00868	AA	ANESTH, KIDNEY TRANSPLANT	8.84	3.70	1.17	11.71
00868	D2	ANESTH, KIDNEY TRANSPLANT	4.45	2.41	0.76	7.62
00868	D3	ANESTH, KIDNEY TRANSPLANT	4.07	2.20	0.69	6.96
00868	D4	ANESTH, KIDNEY TRANSPLANT	3.68	1.99	0.67	6.34
00868	AD	ANESTH, KIDNEY TRANSPLANT	0.78	0.42	0.13	1.33
00870	AA	ANESTH, BLADDER STONE SURG	2.72	1.47	0.46	4.65
00870	D2	ANESTH, BLADDER STONE SURG	1.88	1.02	0.32	3.22
00870	D3	ANESTH, BLADDER STONE SURG	1.69	0.91	0.29	2.89
00870	D4	ANESTH, BLADDER STONE SURG	1.49	0.81	0.27	2.57
00870	AD	ANESTH, BLADDER STONE SURG	0.78	0.42	0.13	1.33
00872	AA	ANESTH, KIDNEY STONE DESTRUCT	3.44	1.86	0.59	5.89
00872	D2	ANESTH, KIDNEY STONE DESTRUCT	2.45	1.32	0.42	4.19
00872	D3	ANESTH, KIDNEY STONE DESTRUCT	2.18	1.16	0.37	3.73
00872	D4	ANESTH, KIDNEY STONE DESTRUCT	1.90	1.03	0.35	3.28
00872	AD	ANESTH, KIDNEY STONE DESTRUCT	0.78	0.42	0.13	1.33
00873	AA	ANESTHESIA FOR LITHOTRIPSY	2.72	1.47	0.46	4.65
00873	D2	ANESTHESIA FOR LITHOTRIPSY	1.88	1.02	0.32	3.22
00873	D3	ANESTHESIA FOR LITHOTRIPSY	1.69	0.91	0.29	2.89
00873	D4	ANESTHESIA FOR LITHOTRIPSY	1.49	0.81	0.25	2.55
00873	AD	ANESTHESIA FOR LITHOTRIPSY	0.78	0.42	0.13	1.33
00880	AA	ANESTH, ABDOMEN VESSEL SURG	8.06	4.36	1.37	13.79
00880	D2	ANESTH, ABDOMEN VESSEL SURG	5.58	3.02	0.95	9.55
00880	D3	ANESTH, ABDOMEN VESSEL SURG	5.00	2.71	0.85	8.56
00880	D4	ANESTH, ABDOMEN VESSEL SURG	4.42	2.39	0.80	7.61
00880	AD	ANESTH, ABDOMEN VESSEL SURG	0.78	0.42	0.13	1.33
00882	AA	ANESTH, MAJOR VEIN LIGATION	5.36	2.90	0.91	9.17
00882	D2	ANESTH, MAJOR VEIN LIGATION	3.72	2.01	0.63	6.36
00882	D3	ANESTH, MAJOR VEIN LIGATION	3.33	1.80	0.57	5.70
00882	D4	ANESTH, MAJOR VEIN LIGATION	2.94	1.59	0.53	5.06
00882	AD	ANESTH, MAJOR VEIN LIGATION	0.78	0.42	0.13	1.33
00884	AA	ANESTH, MAJOR VEIN REVISION	2.72	1.47	0.46	4.65
00884	D2	ANESTH, MAJOR VEIN REVISION	1.88	1.02	0.32	3.22
00884	D3	ANESTH, MAJOR VEIN REVISION	1.69	0.91	0.29	2.89
00884	D4	ANESTH, MAJOR VEIN REVISION	1.49	0.81	0.27	2.57
00884	AD	ANESTH, MAJOR VEIN REVISION	0.78	0.42	0.13	1.33
00900	AA	ANESTH, PERINEAL PROCEDURE	1.81	0.98	0.31	3.10
00900	D2	ANESTH, PERINEAL PROCEDURE	1.22	0.66	0.21	2.09
00900	D3	ANESTH, PERINEAL PROCEDURE	1.10	0.60	0.19	1.89
00900	D4	ANESTH, PERINEAL PROCEDURE	0.98	0.53	0.18	1.69
00900	AD	ANESTH, PERINEAL PROCEDURE	0.78	0.42	0.13	1.33
00902	AA	ANESTH, ANORECTAL SURGERY	2.07	1.12	0.35	3.54
00902	D2	ANESTH, ANORECTAL SURGERY	1.45	0.78	0.25	2.48
00902	D3	ANESTH, ANORECTAL SURGERY	1.30	0.70	0.22	2.22
00902	D4	ANESTH, ANORECTAL SURGERY	1.14	0.62	0.21	1.97
00902	AD	ANESTH, ANORECTAL SURGERY	0.78	0.42	0.13	1.33
00904	AA	ANESTH, PERINEAL SURGERY	5.13	2.78	0.87	8.78
00904	D2	ANESTH, PERINEAL SURGERY	3.29	1.78	0.56	5.63
00904	D3	ANESTH, PERINEAL SURGERY	3.02	1.63	0.51	5.16

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPs ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
00904	D4	ANESTH, PERINEAL SURGERY	2.75	1.49	0.50	4.74
00904	AD	ANESTH, PERINEAL SURGERY	0.78	0.42	0.13	1.33
00906	AA	ANESTH, REMOVAL OF VULVA	2.23	1.21	0.38	3.82
00906	D2	ANESTH, REMOVAL OF VULVA	1.53	0.83	0.26	2.62
00906	D3	ANESTH, REMOVAL OF VULVA	1.37	0.74	0.23	2.34
00906	D4	ANESTH, REMOVAL OF VULVA	1.22	0.66	0.22	2.10
00906	AD	ANESTH, REMOVAL OF VULVA	0.78	0.42	0.13	1.33
00908	AA	ANESTH, REMOVAL OF PROSTATE	4.53	2.45	0.77	7.75
00908	D2	ANESTH, REMOVAL OF PROSTATE	2.89	1.57	0.49	4.95
00908	D3	ANESTH, REMOVAL OF PROSTATE	2.66	1.44	0.45	4.55
00908	D4	ANESTH, REMOVAL OF PROSTATE	2.42	1.31	0.44	4.17
00908	AD	ANESTH, REMOVAL OF PROSTATE	0.78	0.42	0.13	1.33
00910	AA	ANESTH, TRANSURETHRAL PROC	1.71	0.93	0.29	2.93
00910	D2	ANESTH, TRANSURETHRAL PROC	1.17	0.63	0.20	2.00
00910	D3	ANESTH, TRANSURETHRAL PROC	1.05	0.57	0.18	1.80
00910	D4	ANESTH, TRANSURETHRAL PROC	0.93	0.50	0.17	1.60
00910	AD	ANESTH, TRANSURETHRAL PROC	0.78	0.42	0.13	1.33
00912	AA	ANESTH, BLADDER TUMOR SURG	2.33	1.26	0.40	3.99
00912	D2	ANESTH, BLADDER TUMOR SURG	1.69	0.91	0.29	2.89
00912	D3	ANESTH, BLADDER TUMOR SURG	1.49	0.81	0.25	2.55
00912	D4	ANESTH, BLADDER TUMOR SURG	1.30	0.70	0.23	2.23
00912	AD	ANESTH, BLADDER TUMOR SURG	0.78	0.42	0.13	1.33
00914	AA	ANESTH, REMOVAL OF PROSTATE	2.70	1.46	0.46	4.62
00914	D2	ANESTH, REMOVAL OF PROSTATE	1.86	1.01	0.32	3.19
00914	D3	ANESTH, REMOVAL OF PROSTATE	1.67	0.90	0.29	2.86
00914	D4	ANESTH, REMOVAL OF PROSTATE	1.48	0.80	0.27	2.55
00914	AD	ANESTH, REMOVAL OF PROSTATE	0.78	0.42	0.13	1.33
00916	AA	ANESTH, BLEEDING CONTROL	2.43	1.32	0.42	4.17
00916	D2	ANESTH, BLEEDING CONTROL	1.74	0.94	0.30	2.98
00916	D3	ANESTH, BLEEDING CONTROL	1.54	0.83	0.26	2.63
00916	D4	ANESTH, BLEEDING CONTROL	1.35	0.73	0.24	2.32
00916	AD	ANESTH, BLEEDING CONTROL	0.78	0.42	0.13	1.33
00918	AA	ANESTH, TRANSURETHRAL SURGERY	2.72	1.47	0.46	4.65
00918	D2	ANESTH, TRANSURETHRAL SURGERY	1.68	1.02	0.32	3.22
00918	D3	ANESTH, TRANSURETHRAL SURGERY	1.69	0.91	0.29	2.89
00918	D4	ANESTH, TRANSURETHRAL SURGERY	1.49	0.81	0.27	2.57
00918	AD	ANESTH, TRANSURETHRAL SURGERY	0.78	0.42	0.13	1.33
00920	AA	ANESTH, GENITALIA SURGERY	1.92	1.04	0.33	3.29
00920	D2	ANESTH, GENITALIA SURGERY	1.27	0.69	0.22	2.18
00920	D3	ANESTH, GENITALIA SURGERY	1.15	0.63	0.20	1.98
00920	D4	ANESTH, GENITALIA SURGERY	1.03	0.56	0.19	1.78
00920	AD	ANESTH, GENITALIA SURGERY	0.78	0.42	0.13	1.33
00922	AA	ANESTH, SPERM DUCT SURGERY	3.42	1.85	0.58	5.85
00922	D2	ANESTH, SPERM DUCT SURGERY	2.33	1.26	0.40	3.99
00922	D3	ANESTH, SPERM DUCT SURGERY	2.10	1.14	0.36	3.60
00922	D4	ANESTH, SPERM DUCT SURGERY	1.66	1.01	0.34	3.21
00922	AD	ANESTH, SPERM DUCT SURGERY	0.78	0.42	0.13	1.33
00924	AA	ANESTH, TESTIS EXPLORATION	2.23	1.21	0.38	3.82
00924	D2	ANESTH, TESTIS EXPLORATION	1.53	0.83	0.26	2.62
00924	D3	ANESTH, TESTIS EXPLORATION	1.37	0.74	0.23	2.34
00924	D4	ANESTH, TESTIS EXPLORATION	1.22	0.66	0.22	2.10
00924	AD	ANESTH, TESTIS EXPLORATION	0.78	0.42	0.13	1.33
00926	AA	ANESTH, REMOVAL OF TESTIS	2.23	1.21	0.38	3.82
00926	D2	ANESTH, REMOVAL OF TESTIS	1.53	0.83	0.26	2.62
00926	D3	ANESTH, REMOVAL OF TESTIS	1.37	0.74	0.23	2.34
00926	D4	ANESTH, REMOVAL OF TESTIS	1.22	0.66	0.22	2.10
00926	AD	ANESTH, REMOVAL OF TESTIS	0.78	0.42	0.13	1.33

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
00928	AA	ANESTH, REMOVAL OF TESTIS	3.39	1.84	0.58	5.81
00928	D2	ANESTH, REMOVAL OF TESTIS	2.32	1.25	0.39	3.96
00928	D3	ANESTH, REMOVAL OF TESTIS	2.09	1.13	0.36	3.58
00928	D4	ANESTH, REMOVAL OF TESTIS	1.85	1.00	0.34	3.19
00928	AD	ANESTH, REMOVAL OF TESTIS	0.78	0.42	0.13	1.33
00930	AA	ANESTH, TESTIS SUSPENSION	2.23	1.21	0.38	3.82
00930	D2	ANESTH, TESTIS SUSPENSION	1.53	0.83	0.26	2.62
00930	D3	ANESTH, TESTIS SUSPENSION	1.37	0.74	0.23	2.34
00930	D4	ANESTH, TESTIS SUSPENSION	1.22	0.66	0.22	2.10
00930	AD	ANESTH, TESTIS SUSPENSION	0.78	0.42	0.13	1.33
00932	AA	ANESTH, AMPUTATION OF PENIS	2.23	1.21	0.38	3.82
00932	D2	ANESTH, AMPUTATION OF PENIS	1.53	0.83	0.26	2.62
00932	D3	ANESTH, AMPUTATION OF PENIS	1.37	0.74	0.23	2.34
00932	D4	ANESTH, AMPUTATION OF PENIS	1.22	0.66	0.22	2.10
00932	AD	ANESTH, AMPUTATION OF PENIS	0.78	0.42	0.13	1.33
00934	AA	ANESTH, PENIS, NODES REMOVAL	3.42	1.85	0.58	5.85
00934	D2	ANESTH, PENIS, NODES REMOVAL	2.33	1.28	0.40	3.99
00934	D3	ANESTH, PENIS, NODES REMOVAL	2.10	1.14	0.36	3.60
00934	D4	ANESTH, PENIS, NODES REMOVAL	1.86	1.01	0.34	3.21
00934	AD	ANESTH, PENIS, NODES REMOVAL	0.78	0.42	0.13	1.33
00936	AA	ANESTH, PENIS, NODES REMOVAL	4.95	2.88	0.84	8.47
00936	D2	ANESTH, PENIS, NODES REMOVAL	3.30	1.79	0.56	5.65
00936	D3	ANESTH, PENIS, NODES REMOVAL	2.99	1.62	0.51	5.12
00936	D4	ANESTH, PENIS, NODES REMOVAL	2.68	1.45	0.49	4.62
00936	AD	ANESTH, PENIS, NODES REMOVAL	0.78	0.42	0.13	1.33
00938	AA	ANESTH, INSERT PENIS DEVICE	3.08	1.67	0.52	5.27
00938	D2	ANESTH, INSERT PENIS DEVICE	1.98	1.06	0.33	3.35
00938	D3	ANESTH, INSERT PENIS DEVICE	1.80	0.97	0.31	3.08
00938	D4	ANESTH, INSERT PENIS DEVICE	1.64	0.89	0.30	2.83
00938	AD	ANESTH, INSERT PENIS DEVICE	0.78	0.42	0.13	1.33
00940	AA	ANESTH, VAGINAL PROCEDURES	1.56	0.84	0.26	2.66
00940	D2	ANESTH, VAGINAL PROCEDURES	1.09	0.59	0.18	1.86
00940	D3	ANESTH, VAGINAL PROCEDURES	0.97	0.53	0.17	1.67
00940	D4	ANESTH, VAGINAL PROCEDURES	0.85	0.46	0.16	1.47
00940	AD	ANESTH, VAGINAL PROCEDURES	0.78	0.42	0.13	1.33
00942	AA	ANESTH, SURGERY ON VAGINA	2.70	1.46	0.46	4.62
00942	D2	ANESTH, SURGERY ON VAGINA	1.78	0.95	0.30	3.01
00942	D3	ANESTH, SURGERY ON VAGINA	1.61	0.87	0.27	2.75
00942	D4	ANESTH, SURGERY ON VAGINA	1.45	0.78	0.26	2.49
00942	AD	ANESTH, SURGERY ON VAGINA	0.78	0.42	0.13	1.33
00944	AA	ANESTH, VAGINAL HYSTERECTOMY	3.83	2.08	0.65	6.56
00944	D2	ANESTH, VAGINAL HYSTERECTOMY	2.54	1.37	0.43	4.34
00944	D3	ANESTH, VAGINAL HYSTERECTOMY	2.30	1.25	0.39	3.94
00944	D4	ANESTH, VAGINAL HYSTERECTOMY	2.07	1.12	0.37	3.56
00944	AD	ANESTH, VAGINAL HYSTERECTOMY	0.78	0.42	0.13	1.33
00946	AA	ANESTH, VAGINAL DELIVERY	2.72	1.47	0.46	4.65
00946	D2	ANESTH, VAGINAL DELIVERY	1.88	1.02	0.32	3.22
00946	D3	ANESTH, VAGINAL DELIVERY	1.69	0.91	0.29	2.89
00946	D4	ANESTH, VAGINAL DELIVERY	1.49	0.81	0.27	2.57
00946	AD	ANESTH, VAGINAL DELIVERY	0.78	0.42	0.13	1.33
00948	AA	ANESTH, REPAIR OF CERVIX	2.23	1.21	0.38	3.82
00948	D2	ANESTH, REPAIR OF CERVIX	1.53	0.83	0.26	2.62
00948	D3	ANESTH, REPAIR OF CERVIX	1.37	0.74	0.23	2.34
00948	D4	ANESTH, REPAIR OF CERVIX	1.22	0.66	0.22	2.10
00948	AD	ANESTH, REPAIR OF CERVIX	0.78	0.42	0.13	1.33
00950	AA	ANESTH, VAGINAL ENDOSCOPY	2.72	1.47	0.46	4.65
00950	D2	ANESTH, VAGINAL ENDOSCOPY	1.88	1.02	0.32	3.22

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
00950	D3	ANESTH, VAGINAL ENDOSCOPY	1.69	0.91	0.29	2.89
00950	D4	ANESTH, VAGINAL ENDOSCOPY	1.49	0.81	0.25	2.55
00950	AD	ANESTH, VAGINAL ENDOSCOPY	0.78	0.42	0.13	1.33
00952	AA	ANESTH, UTERINE ENDOSCOPY	2.12	1.15	0.36	3.63
00952	D2	ANESTH, UTERINE ENDOSCOPY	1.58	0.85	0.27	2.70
00952	D3	ANESTH, UTERINE ENDOSCOPY	1.38	0.75	0.23	2.36
00952	D4	ANESTH, UTERINE ENDOSCOPY	1.19	0.64	0.22	2.05
00952	AD	ANESTH, UTERINE ENDOSCOPY	0.78	0.42	0.13	1.33
00955	AA	ANALGESIA, VAGINAL DELIVERY	2.23	1.21	0.38	3.82
00955	D2	ANALGESIA, VAGINAL DELIVERY	1.53	0.83	0.26	2.62
00955	D3	ANALGESIA, VAGINAL DELIVERY	1.37	0.74	0.23	2.34
00955	D4	ANALGESIA, VAGINAL DELIVERY	1.22	0.66	0.22	2.10
00955	AD	ANALGESIA, VAGINAL DELIVERY	0.78	0.42	0.13	1.33
01000	AA	ANESTH, SKIN SURGERY, PELVIS	2.12	1.15	0.36	3.63
01000	D2	ANESTH, SKIN SURGERY, PELVIS	1.37	0.74	0.23	2.34
01000	D3	ANESTH, SKIN SURGERY, PELVIS	1.28	0.68	0.21	2.15
01000	D4	ANESTH, SKIN SURGERY, PELVIS	1.14	0.62	0.21	1.97
01000	AD	ANESTH, SKIN SURGERY, PELVIS	0.78	0.42	0.13	1.33
01110	AA	ANESTH, SKIN SURGERY, PELVIS	2.70	1.46	0.46	4.62
01110	D2	ANESTH, SKIN SURGERY, PELVIS	1.86	1.01	0.32	3.19
01110	D3	ANESTH, SKIN SURGERY, PELVIS	1.67	0.90	0.29	2.86
01110	D4	ANESTH, SKIN SURGERY, PELVIS	1.48	0.80	0.27	2.55
01110	AD	ANESTH, SKIN SURGERY, PELVIS	0.78	0.42	0.13	1.33
01120	AA	ANESTH, PELVIS SURGERY	3.19	1.72	0.54	5.45
01120	D2	ANESTH, PELVIS SURGERY	2.22	1.20	0.38	3.80
01120	D3	ANESTH, PELVIS SURGERY	1.98	1.07	0.34	3.39
01120	D4	ANESTH, PELVIS SURGERY	1.75	0.95	0.32	3.02
01120	AD	ANESTH, PELVIS SURGERY	0.78	0.42	0.13	1.33
01130	AA	ANESTH, BODY CAST PROCEDURE	1.97	1.07	0.34	3.38
01130	D2	ANESTH, BODY CAST PROCEDURE	1.30	0.70	0.22	2.22
01130	D3	ANESTH, BODY CAST PROCEDURE	1.18	0.64	0.20	2.02
01130	D4	ANESTH, BODY CAST PROCEDURE	1.06	0.57	0.19	1.82
01130	AD	ANESTH, BODY CAST PROCEDURE	0.78	0.42	0.13	1.33
01140	AA	ANESTH, HINDQUARTER AMPUT	7.80	4.22	1.33	13.35
01140	D2	ANESTH, HINDQUARTER AMPUT	5.45	2.95	0.93	9.33
01140	D3	ANESTH, HINDQUARTER AMPUT	4.67	2.63	0.83	8.33
01140	D4	ANESTH, HINDQUARTER AMPUT	4.29	2.32	0.78	7.39
01140	AD	ANESTH, HINDQUARTER AMPUT	0.78	0.42	0.13	1.33
01150	AA	ANESTH, PELVIC TUMOR SURGERY	4.95	2.68	0.84	8.47
01150	D2	ANESTH, PELVIC TUMOR SURGERY	3.30	1.79	0.56	5.65
01150	D3	ANESTH, PELVIC TUMOR SURGERY	2.99	1.62	0.51	5.12
01150	D4	ANESTH, PELVIC TUMOR SURGERY	2.68	1.45	0.49	4.62
01150	AD	ANESTH, PELVIC TUMOR SURGERY	0.78	0.42	0.13	1.33
01160	AA	ANESTH, PELVIS PROCEDURE	2.23	1.21	0.38	3.82
01160	D2	ANESTH, PELVIS PROCEDURE	1.53	0.83	0.26	2.62
01160	D3	ANESTH, PELVIS PROCEDURE	1.37	0.74	0.23	2.34
01160	D4	ANESTH, PELVIS PROCEDURE	1.22	0.66	0.22	2.10
01160	AD	ANESTH, PELVIS PROCEDURE	0.78	0.42	0.13	1.33
01170	AA	ANESTH, PELVIS SURGERY	4.95	2.68	0.84	8.47
01170	D2	ANESTH, PELVIS SURGERY	3.30	1.79	0.56	5.65
01170	D3	ANESTH, PELVIS SURGERY	2.99	1.62	0.51	5.12
01170	D4	ANESTH, PELVIS SURGERY	2.68	1.45	0.49	4.62
01170	AD	ANESTH, PELVIS SURGERY	0.78	0.42	0.13	1.33
01180	AA	ANESTH, PELVIS NERVE REMOVAL	1.97	1.07	0.34	3.38
01180	D2	ANESTH, PELVIS NERVE REMOVAL	1.30	0.70	0.22	2.22
01180	D3	ANESTH, PELVIS NERVE REMOVAL	1.18	0.64	0.20	2.02
01180	D4	ANESTH, PELVIS NERVE REMOVAL	1.06	0.57	0.19	1.82

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
01180	AD	ANESTH, PELVIS NERVE REMOVAL	0.78	0.42	0.13	1.33
01190	AA	ANESTH, PELVIS NERVE REMOVAL	2.23	1.21	0.38	3.82
01190	D2	ANESTH, PELVIS NERVE REMOVAL	1.53	0.83	0.26	2.62
01190	D3	ANESTH, PELVIS NERVE REMOVAL	1.37	0.74	0.23	2.34
01190	D4	ANESTH, PELVIS NERVE REMOVAL	1.22	0.66	0.22	2.10
01190	AD	ANESTH, PELVIS NERVE REMOVAL	0.78	0.42	0.13	1.33
01200	AA	ANESTH, HIP JOINT PROCEDURE	1.97	1.07	0.34	3.38
01200	D2	ANESTH, HIP JOINT PROCEDURE	1.40	0.76	0.24	2.40
01200	D3	ANESTH, HIP JOINT PROCEDURE	1.24	0.67	0.21	2.12
01200	D4	ANESTH, HIP JOINT PROCEDURE	1.09	0.59	0.20	1.88
01200	AD	ANESTH, HIP JOINT PROCEDURE	0.78	0.42	0.13	1.33
01202	AA	ANESTH, ARTHROSCOPY OF HIP	2.23	1.21	0.38	3.82
01202	D2	ANESTH, ARTHROSCOPY OF HIP	1.53	0.83	0.26	2.62
01202	D3	ANESTH, ARTHROSCOPY OF HIP	1.37	0.74	0.23	2.34
01202	D4	ANESTH, ARTHROSCOPY OF HIP	1.22	0.66	0.22	2.10
01202	AD	ANESTH, ARTHROSCOPY OF HIP	0.78	0.42	0.13	1.33
01210	AA	ANESTH, HIP JOINT SURGERY	3.42	1.85	0.58	5.85
01210	D2	ANESTH, HIP JOINT SURGERY	2.33	1.26	0.40	3.99
01210	D3	ANESTH, HIP JOINT SURGERY	2.10	1.14	0.36	3.60
01210	D4	ANESTH, HIP JOINT SURGERY	1.86	1.01	0.34	3.21
01210	AD	ANESTH, HIP JOINT SURGERY	0.78	0.42	0.13	1.33
01212	AA	ANESTH, HIP DISARTICULATION	5.36	2.90	0.91	9.17
01212	D2	ANESTH, HIP DISARTICULATION	3.72	2.01	0.63	6.36
01212	D3	ANESTH, HIP DISARTICULATION	3.33	1.80	0.57	5.70
01212	D4	ANESTH, HIP DISARTICULATION	2.94	1.59	0.53	5.06
01212	AD	ANESTH, HIP DISARTICULATION	0.78	0.42	0.13	1.33
01214	AA	ANESTH, REPLACEMENT OF HIP	5.52	2.99	0.94	9.45
01214	D2	ANESTH, REPLACEMENT OF HIP	3.79	2.05	0.65	6.49
01214	D3	ANESTH, REPLACEMENT OF HIP	3.41	1.84	0.58	5.83
01214	D4	ANESTH, REPLACEMENT OF HIP	3.02	1.63	0.55	5.20
01214	AD	ANESTH, REPLACEMENT OF HIP	0.78	0.42	0.13	1.33
01220	AA	ANESTH, PROCEDURE ON FEMUR	2.23	1.21	0.38	3.82
01220	D2	ANESTH, PROCEDURE ON FEMUR	1.53	0.83	0.26	2.62
01220	D3	ANESTH, PROCEDURE ON FEMUR	1.37	0.74	0.23	2.34
01220	D4	ANESTH, PROCEDURE ON FEMUR	1.22	0.66	0.22	2.10
01220	AD	ANESTH, PROCEDURE ON FEMUR	0.78	0.42	0.13	1.33
01230	AA	ANESTH, SURGERY OF FEMUR	3.57	1.94	0.61	6.12
01230	D2	ANESTH, SURGERY OF FEMUR	2.41	1.30	0.41	4.12
01230	D3	ANESTH, SURGERY OF FEMUR	2.18	1.18	0.37	3.73
01230	D4	ANESTH, SURGERY OF FEMUR	1.94	1.05	0.35	3.34
01230	AD	ANESTH, SURGERY OF FEMUR	0.78	0.42	0.13	1.33
01232	AA	ANESTH, AMPUTATION OF FEMUR	2.72	1.47	0.46	4.65
01232	D2	ANESTH, AMPUTATION OF FEMUR	1.88	1.02	0.32	3.22
01232	D3	ANESTH, AMPUTATION OF FEMUR	1.69	0.91	0.29	2.89
01232	D4	ANESTH, AMPUTATION OF FEMUR	1.49	0.81	0.27	2.57
01232	AD	ANESTH, AMPUTATION OF FEMUR	0.78	0.42	0.13	1.33
01234	AA	ANESTH, RADICAL FEMUR SURG	4.95	2.68	0.84	8.47
01234	D2	ANESTH, RADICAL FEMUR SURG	3.30	1.79	0.56	5.65
01234	D3	ANESTH, RADICAL FEMUR SURG	2.99	1.62	0.51	5.12
01234	D4	ANESTH, RADICAL FEMUR SURG	2.08	1.45	0.49	4.62
01234	AD	ANESTH, RADICAL FEMUR SURG	0.78	0.42	0.13	1.33
01240	AA	ANESTH, UPPER LEG SKIN SURG	2.05	1.11	0.35	3.51
01240	D2	ANESTH, UPPER LEG SKIN SURG	1.33	0.72	0.23	2.28
01240	D3	ANESTH, UPPER LEG SKIN SURG	1.22	0.66	0.21	2.09
01240	D4	ANESTH, UPPER LEG SKIN SURG	1.10	0.60	0.20	1.90
01240	AD	ANESTH, UPPER LEG SKIN SURG	0.78	0.42	0.13	1.33
01250	AA	ANESTH, UPPER LEG SURGERY	2.51	1.36	0.43	4.30

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPs ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
01250	D2	ANESTH, UPPER LEG SURGERY	1.67	0.90	0.29	2.86
01250	D3	ANESTH, UPPER LEG SURGERY	1.51	0.82	0.26	2.59
01250	D4	ANESTH, UPPER LEG SURGERY	1.36	0.74	0.25	2.35
01250	AD	ANESTH, UPPER LEG SURGERY	0.78	0.42	0.13	1.33
01260	AA	ANESTH, UPPER LEG VEINS SURG	2.51	1.36	0.43	4.30
01260	D2	ANESTH, UPPER LEG VEINS SURG	1.57	0.85	0.27	2.69
01260	D3	ANESTH, UPPER LEG VEINS SURG	1.45	0.78	0.25	2.48
01260	D4	ANESTH, UPPER LEG VEINS SURG	1.33	0.72	0.24	2.29
01260	AD	ANESTH, UPPER LEG VEINS SURG	0.78	0.42	0.13	1.33
01270	AA	ANESTH, THIGH ARTERIES SURG	5.36	2.90	0.91	9.17
01270	D2	ANESTH, THIGH ARTERIES SURG	3.51	1.90	0.60	6.01
01270	D3	ANESTH, THIGH ARTERIES SURG	3.20	1.73	0.55	5.48
01270	D4	ANESTH, THIGH ARTERIES SURG	2.89	1.57	0.52	4.98
01270	AD	ANESTH, THIGH ARTERIES SURG	0.78	0.42	0.13	1.33
01272	AA	ANESTH, FEMORAL ARTERY SURG	2.23	1.21	0.38	3.82
01272	D2	ANESTH, FEMORAL ARTERY SURG	1.53	0.83	0.26	2.62
01272	D3	ANESTH, FEMORAL ARTERY SURG	1.37	0.74	0.23	2.34
01272	D4	ANESTH, FEMORAL ARTERY SURG	1.22	0.66	0.22	2.10
01272	AD	ANESTH, FEMORAL ARTERY SURG	0.78	0.42	0.13	1.33
01274	AA	ANESTH, FEMORAL EMBOLECTOMY	3.63	1.98	0.62	6.25
01274	D2	ANESTH, FEMORAL EMBOLECTOMY	2.45	1.32	0.42	4.19
01274	D3	ANESTH, FEMORAL EMBOLECTOMY	2.22	1.20	0.38	3.80
01274	D4	ANESTH, FEMORAL EMBOLECTOMY	1.98	1.07	0.36	3.41
01274	AD	ANESTH, FEMORAL EMBOLECTOMY	0.78	0.42	0.13	1.33
01300	AA	ANESTH, SKIN SURGERY, KNEE	2.12	1.15	0.36	3.63
01300	D2	ANESTH, SKIN SURGERY, KNEE	1.37	0.74	0.23	2.34
01300	D3	ANESTH, SKIN SURGERY, KNEE	1.26	0.68	0.21	2.15
01300	D4	ANESTH, SKIN SURGERY, KNEE	1.14	0.62	0.21	1.97
01300	AD	ANESTH, SKIN SURGERY, KNEE	0.78	0.42	0.13	1.33
01320	AA	ANESTH, KNEE AREA SURGERY	2.51	1.36	0.43	4.30
01320	D2	ANESTH, KNEE AREA SURGERY	1.67	0.90	0.29	2.86
01320	D3	ANESTH, KNEE AREA SURGERY	1.51	0.82	0.26	2.59
01320	D4	ANESTH, KNEE AREA SURGERY	1.36	0.74	0.25	2.35
01320	AD	ANESTH, KNEE AREA SURGERY	0.78	0.42	0.13	1.33
01340	AA	ANESTH, KNEE AREA PROCEDURE	2.23	1.21	0.38	3.82
01340	D2	ANESTH, KNEE AREA PROCEDURE	1.53	0.83	0.26	2.62
01340	D3	ANESTH, KNEE AREA PROCEDURE	1.37	0.74	0.23	2.34
01340	D4	ANESTH, KNEE AREA PROCEDURE	1.22	0.66	0.22	2.10
01340	AD	ANESTH, KNEE AREA PROCEDURE	0.78	0.42	0.13	1.33
01360	AA	ANESTH, KNEE AREA SURGERY	3.55	1.92	0.60	6.07
01360	D2	ANESTH, KNEE AREA SURGERY	2.29	1.24	0.39	3.92
01360	D3	ANESTH, KNEE AREA SURGERY	2.10	1.14	0.36	3.60
01360	D4	ANESTH, KNEE AREA SURGERY	1.90	1.03	0.35	3.28
01360	AD	ANESTH, KNEE AREA SURGERY	0.78	0.42	0.13	1.33
01380	AA	ANESTH, KNEE JOINT PROCEDURE	1.35	0.73	0.23	2.31
01380	D2	ANESTH, KNEE JOINT PROCEDURE	0.98	0.53	0.17	1.68
01380	D3	ANESTH, KNEE JOINT PROCEDURE	0.87	0.47	0.15	1.49
01380	D4	ANESTH, KNEE JOINT PROCEDURE	0.75	0.41	0.14	1.30
01380	AD	ANESTH, KNEE JOINT PROCEDURE	0.78	0.42	0.13	1.33
01382	AA	ANESTH, KNEE ARTHROSCOPY	2.28	1.23	0.39	3.90
01382	D2	ANESTH, KNEE ARTHROSCOPY	1.45	0.78	0.25	2.48
01382	D3	ANESTH, KNEE ARTHROSCOPY	1.33	0.72	0.23	2.28
01382	D4	ANESTH, KNEE ARTHROSCOPY	1.22	0.66	0.22	2.10
01382	AD	ANESTH, KNEE ARTHROSCOPY	0.78	0.42	0.13	1.33
01390	AA	ANESTH, KNEE AREA PROCEDURE	1.97	1.07	0.34	3.38
01390	D2	ANESTH, KNEE AREA PROCEDURE	1.30	0.70	0.22	2.22
01390	D3	ANESTH, KNEE AREA PROCEDURE	1.18	0.64	0.20	2.02

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
01390	D4	ANESTH, KNEE AREA PROCEDURE	1.06	0.57	0.19	1.82
01390	AD	ANESTH, KNEE AREA PROCEDURE	0.78	0.42	0.13	1.33
01392	AA	ANESTH, KNEE AREA SURGERY	3.03	1.64	0.52	5.19
01392	D2	ANESTH, KNEE AREA SURGERY	1.93	1.04	0.33	3.30
01392	D3	ANESTH, KNEE AREA SURGERY	1.77	0.96	0.30	3.03
01392	D4	ANESTH, KNEE AREA SURGERY	1.62	0.88	0.29	2.79
01392	AD	ANESTH, KNEE AREA SURGERY	0.78	0.42	0.13	1.33
01400	AA	ANESTH, KNEE JOINT SURGERY	2.72	1.47	0.46	4.65
01400	D2	ANESTH, KNEE JOINT SURGERY	1.77	0.98	0.30	3.03
01400	D3	ANESTH, KNEE JOINT SURGERY	1.62	0.88	0.28	2.78
01400	D4	ANESTH, KNEE JOINT SURGERY	1.46	0.79	0.27	2.52
01400	AD	ANESTH, KNEE JOINT SURGERY	0.78	0.42	0.13	1.33
01402	AA	ANESTH, TOTAL KNEE REPLACED	4.56	2.47	0.78	7.81
01402	D2	ANESTH, TOTAL KNEE REPLACED	3.00	1.63	0.51	5.14
01402	D3	ANESTH, TOTAL KNEE REPLACED	2.73	1.48	0.47	4.68
01402	D4	ANESTH, TOTAL KNEE REPLACED	2.46	1.33	0.45	4.24
01402	AD	ANESTH, TOTAL KNEE REPLACED	0.78	0.42	0.13	1.33
01404	AA	ANESTH, KNEE DISARTICULATION	2.72	1.47	0.46	4.65
01404	D2	ANESTH, KNEE DISARTICULATION	1.88	1.02	0.32	3.22
01404	D3	ANESTH, KNEE DISARTICULATION	1.69	0.91	0.29	2.89
01404	D4	ANESTH, KNEE DISARTICULATION	1.49	0.81	0.27	2.57
01404	AD	ANESTH, KNEE DISARTICULATION	0.78	0.42	0.13	1.33
01420	AA	ANESTH, KNEE JOINT CASTING	1.97	1.07	0.34	3.38
01420	D2	ANESTH, KNEE JOINT CASTING	1.30	0.70	0.22	2.22
01420	D3	ANESTH, KNEE JOINT CASTING	1.18	0.64	0.20	2.02
01420	D4	ANESTH, KNEE JOINT CASTING	1.06	0.57	0.19	1.82
01420	AD	ANESTH, KNEE JOINT CASTING	0.78	0.42	0.13	1.33
01430	AA	ANESTH, KNEE VEINS SURGERY	1.97	1.07	0.34	3.38
01430	D2	ANESTH, KNEE VEINS SURGERY	1.30	0.70	0.22	2.22
01430	D3	ANESTH, KNEE VEINS SURGERY	1.18	0.64	0.20	2.02
01430	D4	ANESTH, KNEE VEINS SURGERY	1.06	0.57	0.19	1.82
01430	AD	ANESTH, KNEE VEINS SURGERY	0.78	0.42	0.13	1.33
01432	AA	ANESTH, KNEE VESSEL SURG	2.72	1.47	0.46	4.65
01432	D2	ANESTH, KNEE VESSEL SURG	1.88	1.02	0.32	3.22
01432	D3	ANESTH, KNEE VESSEL SURG	1.69	0.91	0.29	2.89
01432	D4	ANESTH, KNEE VESSEL SURG	1.49	0.81	0.27	2.57
01432	AD	ANESTH, KNEE VESSEL SURG	0.78	0.42	0.13	1.33
01440	AA	ANESTH, KNEE ARTERIES SURG	2.72	1.47	0.46	4.65
01440	D2	ANESTH, KNEE ARTERIES SURG	1.88	1.02	0.32	3.22
01440	D3	ANESTH, KNEE ARTERIES SURG	1.69	0.91	0.29	2.89
01440	D4	ANESTH, KNEE ARTERIES SURG	1.49	0.81	0.27	2.57
01440	AD	ANESTH, KNEE ARTERIES SURG	0.78	0.42	0.13	1.33
01442	AA	ANESTH, KNEE ARTERY SURG	4.95	2.68	0.84	8.47
01442	D2	ANESTH, KNEE ARTERY SURG	3.30	1.79	0.56	5.65
01442	D3	ANESTH, KNEE ARTERY SURG	2.99	1.62	0.51	5.12
01442	D4	ANESTH, KNEE ARTERY SURG	2.68	1.45	0.49	4.62
01442	AD	ANESTH, KNEE ARTERY SURG	0.78	0.42	0.13	1.33
01444	AA	ANESTH, KNEE ARTERY REPAIR	4.95	2.68	0.84	8.47
01444	D2	ANESTH, KNEE ARTERY REPAIR	3.30	1.79	0.56	5.65
01444	D3	ANESTH, KNEE ARTERY REPAIR	2.99	1.62	0.51	5.12
01444	D4	ANESTH, KNEE ARTERY REPAIR	2.68	1.45	0.49	4.62
01444	AD	ANESTH, KNEE ARTERY REPAIR	0.78	0.42	0.13	1.33
01460	AA	ANESTH, LOWER LEG SKIN SURG	1.89	1.02	0.32	3.23
01460	D2	ANESTH, LOWER LEG SKIN SURG	1.26	0.68	0.21	2.15
01460	D3	ANESTH, LOWER LEG SKIN SURG	1.14	0.62	0.19	1.95
01460	D4	ANESTH, LOWER LEG SKIN SURG	1.02	0.55	0.18	1.75
01460	AD	ANESTH, LOWER LEG SKIN SURG	0.78	0.42	0.13	1.33

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
01462	AA	ANESTH, LOWER LEG PROCEDURE	1.71	0.93	0.29	2.93
01462	D2	ANESTH, LOWER LEG PROCEDURE	1.17	0.63	0.20	2.00
01462	D3	ANESTH, LOWER LEG PROCEDURE	1.05	0.57	0.18	1.80
01462	D4	ANESTH, LOWER LEG PROCEDURE	0.93	0.50	0.17	1.60
01462	AD	ANESTH, LOWER LEG PROCEDURE	0.78	0.42	0.13	1.33
01464	AA	ANESTH, ANKLE ARTHROSCOPY	1.97	1.07	0.34	3.38
01464	D2	ANESTH, ANKLE ARTHROSCOPY	1.30	0.70	0.22	2.22
01464	D3	ANESTH, ANKLE ARTHROSCOPY	1.18	0.64	0.20	2.02
01464	D4	ANESTH, ANKLE ARTHROSCOPY	1.06	0.57	0.19	1.82
01464	AD	ANESTH, ANKLE ARTHROSCOPY	0.78	0.42	0.13	1.33
01470	AA	ANESTH, LOWER LEG SURGERY	2.10	1.14	0.36	3.60
01470	D2	ANESTH, LOWER LEG SURGERY	1.36	0.74	0.23	2.33
01470	D3	ANESTH, LOWER LEG SURGERY	1.24	0.67	0.21	2.12
01470	D4	ANESTH, LOWER LEG SURGERY	1.13	0.61	0.20	1.94
01470	AD	ANESTH, LOWER LEG SURGERY	0.78	0.42	0.13	1.33
01472	AA	ANESTH, ACHILLES TENDON SURG	2.72	1.47	0.46	4.65
01472	D2	ANESTH, ACHILLES TENDON SURG	1.88	1.02	0.32	3.22
01472	D3	ANESTH, ACHILLES TENDON SURG	1.69	0.91	0.29	2.89
01472	D4	ANESTH, ACHILLES TENDON SURG	1.49	0.81	0.27	2.57
01472	AD	ANESTH, ACHILLES TENDON SURG	0.78	0.42	0.13	1.33
01474	AA	ANESTH, LOWER LEG SURGERY	2.72	1.47	0.46	4.65
01474	D2	ANESTH, LOWER LEG SURGERY	1.88	1.02	0.32	3.22
01474	D3	ANESTH, LOWER LEG SURGERY	1.69	0.91	0.29	2.89
01474	D4	ANESTH, LOWER LEG SURGERY	1.49	0.81	0.27	2.57
01474	AD	ANESTH, LOWER LEG SURGERY	0.78	0.42	0.13	1.33
01480	AA	ANESTH, LOWER LEG BONE SURG	2.38	1.29	0.41	4.08
01480	D2	ANESTH, LOWER LEG BONE SURG	1.50	0.81	0.26	2.57
01480	D3	ANESTH, LOWER LEG BONE SURG	1.38	0.75	0.23	2.36
01480	D4	ANESTH, LOWER LEG BONE SURG	1.27	0.69	0.23	2.19
01480	AD	ANESTH, LOWER LEG BONE SURG	0.78	0.42	0.13	1.33
01482	AA	ANESTH, RADICAL LEG SURGERY	2.46	1.33	0.42	4.21
01482	D2	ANESTH, RADICAL LEG SURGERY	1.64	0.89	0.28	2.81
01482	D3	ANESTH, RADICAL LEG SURGERY	1.49	0.81	0.25	2.55
01482	D4	ANESTH, RADICAL LEG SURGERY	1.33	0.72	0.24	2.29
01482	AD	ANESTH, RADICAL LEG SURGERY	0.78	0.42	0.13	1.33
01484	AA	ANESTH, LOWER LEG REVISION	2.23	1.21	0.38	3.82
01484	D2	ANESTH, LOWER LEG REVISION	1.53	0.83	0.26	2.62
01484	D3	ANESTH, LOWER LEG REVISION	1.37	0.74	0.23	2.34
01484	D4	ANESTH, LOWER LEG REVISION	1.22	0.66	0.22	2.10
01484	AD	ANESTH, LOWER LEG REVISION	0.78	0.42	0.13	1.33
01486	AA	ANESTH, ANKLE REPLACEMENT	4.07	2.20	0.69	6.96
01486	D2	ANESTH, ANKLE REPLACEMENT	2.76	1.49	0.47	4.72
01486	D3	ANESTH, ANKLE REPLACEMENT	2.49	1.35	0.42	4.26
01486	D4	ANESTH, ANKLE REPLACEMENT	2.22	1.20	0.40	3.82
01486	AD	ANESTH, ANKLE REPLACEMENT	0.78	0.42	0.13	1.33
01490	AA	ANESTH, LOWER LEG CASTING	1.97	1.07	0.34	3.38
01490	D2	ANESTH, LOWER LEG CASTING	1.30	0.70	0.22	2.22
01490	D3	ANESTH, LOWER LEG CASTING	1.18	0.64	0.20	2.02
01490	D4	ANESTH, LOWER LEG CASTING	1.06	0.57	0.19	1.82
01490	AD	ANESTH, LOWER LEG CASTING	0.78	0.42	0.13	1.33
01500	AA	ANESTH, LEG ARTERIES SURG	5.59	3.03	0.95	9.57
01500	D2	ANESTH, LEG ARTERIES SURG	3.63	1.96	0.62	6.21
01500	D3	ANESTH, LEG ARTERIES SURG	3.31	1.79	0.57	5.67
01500	D4	ANESTH, LEG ARTERIES SURG	3.00	1.63	0.55	5.18
01500	AD	ANESTH, LEG ARTERIES SURG	0.78	0.42	0.13	1.33
01502	AA	ANESTH, LOWERLEG EMBOLLECTOMY	3.42	1.85	0.58	5.85
01502	D2	ANESTH, LOWERLEG EMBOLLECTOMY	2.33	1.26	0.40	3.99

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCCPS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
01502	D3	ANESTH, LOWERLEG EMBOLECTOMY	2.10	1.14	0.36	3.60
01502	D4	ANESTH, LOWERLEG EMBOLECTOMY	1.86	1.01	0.34	3.21
01502	AD	ANESTH, LOWERLEG EMBOLECTOMY	0.78	0.42	0.13	1.33
01520	AA	ANESTH, LOWER LEG VEIN SURG	1.97	1.07	0.34	3.38
01520	D2	ANESTH, LOWER LEG VEIN SURG	1.30	0.70	0.22	2.22
01520	D3	ANESTH, LOWER LEG VEIN SURG	1.18	0.64	0.20	2.02
01520	D4	ANESTH, LOWER LEG VEIN SURG	1.06	0.57	0.19	1.82
01520	AD	ANESTH, LOWER LEG VEIN SURG	0.78	0.42	0.13	1.33
01522	AA	ANESTH, LOWER LEG VEIN SURG	2.72	1.47	0.46	4.65
01522	D2	ANESTH, LOWER LEG VEIN SURG	1.88	1.02	0.32	3.22
01522	D3	ANESTH, LOWER LEG VEIN SURG	1.69	0.91	0.29	2.89
01522	D4	ANESTH, LOWER LEG VEIN SURG	1.49	0.81	0.27	2.57
01522	AD	ANESTH, LOWER LEG VEIN SURG	0.78	0.42	0.13	1.33
01600	AA	ANESTH, SHOULDER SKIN SURG	1.99	1.08	0.34	3.41
01600	D2	ANESTH, SHOULDER SKIN SURG	1.31	0.71	0.22	2.24
01600	D3	ANESTH, SHOULDER SKIN SURG	1.19	0.64	0.20	2.03
01600	D4	ANESTH, SHOULDER SKIN SURG	1.08	0.58	0.19	1.85
01600	AD	ANESTH, SHOULDER SKIN SURG	0.78	0.42	0.13	1.33
01610	AA	ANESTH, SURGERY OF SHOULDER	3.16	1.71	0.54	5.41
01610	D2	ANESTH, SURGERY OF SHOULDER	2.10	1.14	0.36	3.60
01610	D3	ANESTH, SURGERY OF SHOULDER	1.90	1.03	0.32	3.25
01610	D4	ANESTH, SURGERY OF SHOULDER	1.71	0.93	0.31	2.95
01610	AD	ANESTH, SURGERY OF SHOULDER	0.78	0.42	0.13	1.33
01620	AA	ANESTH, SHOULDER PROCEDURE	1.66	1.01	0.32	3.19
01620	D2	ANESTH, SHOULDER PROCEDURE	1.35	0.73	0.23	2.31
01620	D3	ANESTH, SHOULDER PROCEDURE	1.19	0.64	0.20	2.03
01620	D4	ANESTH, SHOULDER PROCEDURE	1.03	0.58	0.19	1.76
01620	AD	ANESTH, SHOULDER PROCEDURE	0.78	0.42	0.13	1.33
01622	AA	ANESTH, SHOULDER ARTHROSCOPY	2.88	1.56	0.49	4.93
01622	D2	ANESTH, SHOULDER ARTHROSCOPY	1.85	1.00	0.31	3.16
01622	D3	ANESTH, SHOULDER ARTHROSCOPY	1.70	0.92	0.29	2.91
01622	D4	ANESTH, SHOULDER ARTHROSCOPY	1.54	0.83	0.28	2.65
01622	AD	ANESTH, SHOULDER ARTHROSCOPY	0.78	0.42	0.13	1.33
01630	AA	ANESTH, SURGERY OF SHOULDER	3.21	1.74	0.55	5.50
01630	D2	ANESTH, SURGERY OF SHOULDER	2.12	1.15	0.36	3.63
01630	D3	ANESTH, SURGERY OF SHOULDER	1.93	1.04	0.33	3.30
01630	D4	ANESTH, SURGERY OF SHOULDER	1.74	0.94	0.31	2.99
01630	AD	ANESTH, SURGERY OF SHOULDER	0.78	0.42	0.13	1.33
01632	AA	ANESTH, SURGERY OF SHOULDER	3.42	1.85	0.58	5.85
01632	D2	ANESTH, SURGERY OF SHOULDER	2.33	1.26	0.40	3.99
01632	D3	ANESTH, SURGERY OF SHOULDER	2.10	1.14	0.36	3.60
01632	D4	ANESTH, SURGERY OF SHOULDER	1.86	1.01	0.34	3.21
01632	AD	ANESTH, SURGERY OF SHOULDER	0.78	0.42	0.13	1.33
01634	AA	ANESTH, SHOULDER JOINT AMPUT	4.22	2.29	0.72	7.23
01634	D2	ANESTH, SHOULDER JOINT AMPUT	3.04	1.65	0.52	5.21
01634	D3	ANESTH, SHOULDER JOINT AMPUT	2.70	1.46	0.46	4.62
01634	D4	ANESTH, SHOULDER JOINT AMPUT	2.34	1.27	0.43	4.04
01634	AD	ANESTH, SHOULDER JOINT AMPUT	0.78	0.42	0.13	1.33
01636	AA	ANESTH, FOREQUARTER AMPUT	7.80	4.22	1.33	13.35
01636	D2	ANESTH, FOREQUARTER AMPUT	5.45	2.95	0.93	9.33
01636	D3	ANESTH, FOREQUARTER AMPUT	4.87	2.63	0.83	8.33
01636	D4	ANESTH, FOREQUARTER AMPUT	4.29	2.32	0.78	7.39
01636	AD	ANESTH, FOREQUARTER AMPUT	0.78	0.42	0.13	1.33
01638	AA	ANESTH, SHOULDER REPLACEMENT	5.93	3.21	1.01	10.15
01638	D2	ANESTH, SHOULDER REPLACEMENT	4.00	2.17	0.68	6.85
01638	D3	ANESTH, SHOULDER REPLACEMENT	3.61	1.98	0.62	6.19
01638	D4	ANESTH, SHOULDER REPLACEMENT	3.23	1.75	0.58	5.56

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCCPS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
01638	AD	ANESTH, SHOULDER REPLACEMENT	0.78	0.42	0.13	1.33
01650	AA	ANESTH, SHOULDER ARTERY SURG	3.26	1.77	0.56	5.59
01650	D2	ANESTH, SHOULDER ARTERY SURG	2.25	1.22	0.38	3.85
01650	D3	ANESTH, SHOULDER ARTERY SURG	2.02	1.10	0.34	3.46
01650	D4	ANESTH, SHOULDER ARTERY SURG	1.79	0.97	0.32	3.08
01650	AD	ANESTH, SHOULDER ARTERY SURG	0.78	0.42	0.13	1.33
01652	AA	ANESTH, SHOULDER VESSEL SURG	5.36	2.90	0.91	9.17
01652	D2	ANESTH, SHOULDER VESSEL SURG	3.72	2.01	0.63	6.36
01652	D3	ANESTH, SHOULDER VESSEL SURG	3.33	1.80	0.57	5.70
01652	D4	ANESTH, SHOULDER VESSEL SURG	2.94	1.59	0.53	5.06
01652	AD	ANESTH, SHOULDER VESSEL SURG	0.78	0.42	0.13	1.33
01654	AA	ANESTH, SHOULDER VESSEL SURG	4.95	2.68	0.84	8.47
01654	D2	ANESTH, SHOULDER VESSEL SURG	3.30	1.79	0.58	5.65
01654	D3	ANESTH, SHOULDER VESSEL SURG	2.99	1.62	0.51	5.12
01654	D4	ANESTH, SHOULDER VESSEL SURG	2.68	1.45	0.49	4.62
01654	AD	ANESTH, SHOULDER VESSEL SURG	0.78	0.42	0.13	1.33
01656	AA	ANESTH, ARM-LEG VESSEL SURG	5.36	2.90	0.91	9.17
01656	D2	ANESTH, ARM-LEG VESSEL SURG	3.72	2.01	0.63	6.36
01656	D3	ANESTH, ARM-LEG VESSEL SURG	3.33	1.80	0.57	5.70
01656	D4	ANESTH, ARM-LEG VESSEL SURG	2.94	1.59	0.53	5.06
01656	AD	ANESTH, ARM-LEG VESSEL SURG	0.78	0.42	0.13	1.33
01670	AA	ANESTH, SHOULDER VEIN SURG	2.49	1.35	0.42	4.26
01670	D2	ANESTH, SHOULDER VEIN SURG	1.66	0.90	0.28	2.84
01670	D3	ANESTH, SHOULDER VEIN SURG	1.50	0.81	0.26	2.57
01670	D4	ANESTH, SHOULDER VEIN SURG	1.35	0.73	0.24	2.32
01670	AD	ANESTH, SHOULDER VEIN SURG	0.78	0.42	0.13	1.33
01680	AA	ANESTH, SHOULDER CASTING	1.97	1.07	0.34	3.38
01680	D2	ANESTH, SHOULDER CASTING	1.30	0.70	0.22	2.22
01680	D3	ANESTH, SHOULDER CASTING	1.18	0.64	0.20	2.02
01680	D4	ANESTH, SHOULDER CASTING	1.08	0.57	0.19	1.82
01680	AD	ANESTH, SHOULDER CASTING	0.78	0.42	0.13	1.33
01682	AA	ANESTH, AIRPLANE CAST	2.23	1.21	0.38	3.82
01682	D2	ANESTH, AIRPLANE CAST	1.53	0.83	0.26	2.62
01682	D3	ANESTH, AIRPLANE CAST	1.37	0.74	0.23	2.34
01682	D4	ANESTH, AIRPLANE CAST	1.22	0.66	0.22	2.10
01682	AD	ANESTH, AIRPLANE CAST	0.78	0.42	0.13	1.33
01700	AA	ANESTH, ELBOW AREA SKIN SURG	2.10	1.14	0.36	3.60
01700	D2	ANESTH, ELBOW AREA SKIN SURG	1.36	0.74	0.23	2.33
01700	D3	ANESTH, ELBOW AREA SKIN SURG	1.24	0.67	0.21	2.12
01700	D4	ANESTH, ELBOW AREA SKIN SURG	1.13	0.61	0.20	1.94
01700	AD	ANESTH, ELBOW AREA SKIN SURG	0.78	0.42	0.13	1.33
01710	AA	ANESTH, ELBOW AREA SURGERY	2.05	1.11	0.35	3.51
01710	D2	ANESTH, ELBOW AREA SURGERY	1.33	0.72	0.23	2.28
01710	D3	ANESTH, ELBOW AREA SURGERY	1.22	0.66	0.21	2.09
01710	D4	ANESTH, ELBOW AREA SURGERY	1.10	0.60	0.20	1.90
01710	AD	ANESTH, ELBOW AREA SURGERY	0.78	0.42	0.13	1.33
01712	AA	ANESTH, UPPERARM TENDON SURG	2.72	1.47	0.46	4.65
01712	D2	ANESTH, UPPERARM TENDON SURG	1.88	1.02	0.32	3.22
01712	D3	ANESTH, UPPERARM TENDON SURG	1.69	0.91	0.29	2.89
01712	D4	ANESTH, UPPERARM TENDON SURG	1.49	0.81	0.27	2.57
01712	AD	ANESTH, UPPERARM TENDON SURG	0.78	0.42	0.13	1.33
01714	AA	ANESTH, UPPERARM TENDON SURG	2.72	1.47	0.46	4.65
01714	D2	ANESTH, UPPERARM TENDON SURG	1.88	1.02	0.32	3.22
01714	D3	ANESTH, UPPERARM TENDON SURG	1.69	0.91	0.29	2.89
01714	D4	ANESTH, UPPERARM TENDON SURG	1.49	0.81	0.27	2.57
01714	AD	ANESTH, UPPERARM TENDON SURG	0.78	0.42	0.13	1.33
01716	AA	ANESTH, BICEPS TENDON REPAIR	2.72	1.47	0.46	4.65

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCCPS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
01716	D2	ANESTH, BICEPS TENDON REPAIR	1.88	1.02	0.32	3.22
01716	D3	ANESTH, BICEPS TENDON REPAIR	1.69	0.91	0.29	2.89
01716	D4	ANESTH, BICEPS TENDON REPAIR	1.49	0.81	0.27	2.57
01716	AD	ANESTH, BICEPS TENDON REPAIR	0.78	0.42	0.13	1.33
01730	AA	ANESTH, UPPERARM PROCEDURE	1.97	1.07	0.34	3.38
01730	D2	ANESTH, UPPERARM PROCEDURE	1.30	0.70	0.22	2.22
01730	D3	ANESTH, UPPERARM PROCEDURE	1.18	0.64	0.20	2.02
01730	D4	ANESTH, UPPERARM PROCEDURE	1.06	0.57	0.19	1.82
01730	AD	ANESTH, UPPERARM PROCEDURE	0.78	0.42	0.13	1.33
01732	AA	ANESTH, ELBOW ARTHROSCOPY	1.97	1.07	0.34	3.38
01732	D2	ANESTH, ELBOW ARTHROSCOPY	1.30	0.70	0.22	2.22
01732	D3	ANESTH, ELBOW ARTHROSCOPY	1.18	0.64	0.20	2.02
01732	D4	ANESTH, ELBOW ARTHROSCOPY	1.06	0.57	0.19	1.82
01732	AD	ANESTH, ELBOW ARTHROSCOPY	0.78	0.42	0.13	1.33
01740	AA	ANESTH, UPPER ARM SURGERY	2.90	1.57	0.50	4.97
01740	D2	ANESTH, UPPER ARM SURGERY	1.88	1.01	0.32	3.19
01740	D3	ANESTH, UPPER ARM SURGERY	1.71	0.93	0.29	2.93
01740	D4	ANESTH, UPPER ARM SURGERY	1.56	0.84	0.28	2.68
01740	AD	ANESTH, UPPER ARM SURGERY	0.78	0.42	0.13	1.33
01742	AA	ANESTH, HUMERUS SURGERY	2.72	1.47	0.46	4.65
01742	D2	ANESTH, HUMERUS SURGERY	1.88	1.02	0.32	3.22
01742	D3	ANESTH, HUMERUS SURGERY	1.69	0.91	0.29	2.89
01742	D4	ANESTH, HUMERUS SURGERY	1.49	0.81	0.27	2.57
01742	AD	ANESTH, HUMERUS SURGERY	0.78	0.42	0.13	1.33
01744	AA	ANESTH, HUMERUS REPAIR	2.72	1.47	0.46	4.65
01744	D2	ANESTH, HUMERUS REPAIR	1.88	1.02	0.32	3.22
01744	D3	ANESTH, HUMERUS REPAIR	1.69	0.91	0.29	2.89
01744	D4	ANESTH, HUMERUS REPAIR	1.49	0.81	0.27	2.57
01744	AD	ANESTH, HUMERUS REPAIR	0.78	0.42	0.13	1.33
01756	AA	ANESTH, RADICAL HUMERUS SURG	3.42	1.85	0.58	5.85
01756	D2	ANESTH, RADICAL HUMERUS SURG	2.33	1.26	0.40	3.99
01756	D3	ANESTH, RADICAL HUMERUS SURG	2.10	1.14	0.36	3.60
01756	D4	ANESTH, RADICAL HUMERUS SURG	1.86	1.01	0.34	3.21
01756	AD	ANESTH, RADICAL HUMERUS SURG	0.78	0.42	0.13	1.33
01758	AA	ANESTH, HUMERAL LESION SURG	2.72	1.47	0.46	4.65
01758	D2	ANESTH, HUMERAL LESION SURG	1.88	1.02	0.32	3.22
01758	D3	ANESTH, HUMERAL LESION SURG	1.69	0.91	0.29	2.89
01758	D4	ANESTH, HUMERAL LESION SURG	1.49	0.81	0.27	2.57
01758	AD	ANESTH, HUMERAL LESION SURG	0.78	0.42	0.13	1.33
01760	AA	ANESTH, ELBOW REPLACEMENT	4.07	2.20	0.69	6.96
01760	D2	ANESTH, ELBOW REPLACEMENT	2.76	1.49	0.47	4.72
01760	D3	ANESTH, ELBOW REPLACEMENT	2.49	1.35	0.42	4.26
01760	D4	ANESTH, ELBOW REPLACEMENT	2.22	1.20	0.40	3.82
01760	AD	ANESTH, ELBOW REPLACEMENT	0.78	0.42	0.13	1.33
01770	AA	ANESTH, UPPERARM ARTERY SURG	4.07	2.20	0.69	6.96
01770	D2	ANESTH, UPPERARM ARTERY SURG	2.86	1.55	0.49	4.90
01770	D3	ANESTH, UPPERARM ARTERY SURG	2.55	1.38	0.43	4.36
01770	D4	ANESTH, UPPERARM ARTERY SURG	2.24	1.21	0.41	3.86
01770	AD	ANESTH, UPPERARM ARTERY SURG	0.78	0.42	0.13	1.33
01772	AA	ANESTH, UPPERARM EMBOLECTOMY	3.21	1.74	0.55	5.50
01772	D2	ANESTH, UPPERARM EMBOLECTOMY	2.23	1.21	0.38	3.82
01772	D3	ANESTH, UPPERARM EMBOLECTOMY	1.99	1.08	0.34	3.41
01772	D4	ANESTH, UPPERARM EMBOLECTOMY	1.76	0.95	0.32	3.03
01772	AD	ANESTH, UPPERARM EMBOLECTOMY	0.78	0.42	0.13	1.33
01780	AA	ANESTH, UPPER ARM VEIN SURG	1.97	1.07	0.34	3.38
01780	D2	ANESTH, UPPER ARM VEIN SURG	1.30	0.70	0.22	2.22
01780	D3	ANESTH, UPPER ARM VEIN SURG	1.18	0.64	0.20	2.02

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
01780	D4	ANESTH, UPPER ARM VEIN SURG	1.06	0.57	0.19	1.82
01780	AD	ANESTH, UPPER ARM VEIN SURG	0.78	0.42	0.13	1.33
01782	AA	ANESTH, UPPERARM VEIN REPAIR	2.23	1.21	0.38	3.82
01782	D2	ANESTH, UPPERARM VEIN REPAIR	1.53	0.83	0.26	2.62
01782	D3	ANESTH, UPPERARM VEIN REPAIR	1.37	0.74	0.23	2.34
01782	D4	ANESTH, UPPERARM VEIN REPAIR	1.22	0.66	0.22	2.10
01782	AD	ANESTH, UPPERARM VEIN REPAIR	0.78	0.42	0.13	1.33
01800	AA	ANESTH, LOWER ARM SKIN SURG	2.07	1.12	0.35	3.54
01800	D2	ANESTH, LOWER ARM SKIN SURG	1.35	0.73	0.23	2.31
01800	D3	ANESTH, LOWER ARM SKIN SURG	1.23	0.67	0.21	2.11
01800	D4	ANESTH, LOWER ARM SKIN SURG	1.11	0.60	0.20	1.91
01800	AD	ANESTH, LOWER ARM SKIN SURG	0.78	0.42	0.13	1.33
01810	AA	ANESTH, LOWER ARM SURGERY	2.05	1.11	0.35	3.51
01810	D2	ANESTH, LOWER ARM SURGERY	1.33	0.72	0.23	2.28
01810	D3	ANESTH, LOWER ARM SURGERY	1.22	0.66	0.21	2.09
01810	D4	ANESTH, LOWER ARM SURGERY	1.10	0.60	0.20	1.90
01810	AD	ANESTH, LOWER ARM SURGERY	0.78	0.42	0.13	1.33
01820	AA	ANESTH, LOWER ARM PROCEDURE	1.79	0.97	0.30	3.06
01820	D2	ANESTH, LOWER ARM PROCEDURE	1.21	0.65	0.21	2.07
01820	D3	ANESTH, LOWER ARM PROCEDURE	1.09	0.59	0.18	1.86
01820	D4	ANESTH, LOWER ARM PROCEDURE	0.97	0.53	0.17	1.67
01820	AD	ANESTH, LOWER ARM PROCEDURE	0.78	0.42	0.13	1.33
01830	AA	ANESTH, LOWER ARM SURGERY	2.36	1.29	0.41	4.06
01830	D2	ANESTH, LOWER ARM SURGERY	1.50	0.81	0.26	2.57
01830	D3	ANESTH, LOWER ARM SURGERY	1.38	0.75	0.23	2.36
01830	D4	ANESTH, LOWER ARM SURGERY	1.27	0.69	0.23	2.19
01830	AD	ANESTH, LOWER ARM SURGERY	0.78	0.42	0.13	1.33
01832	AA	ANESTH, WRIST REPLACEMENT	3.42	1.85	0.58	5.85
01832	D2	ANESTH, WRIST REPLACEMENT	2.33	1.26	0.40	3.99
01832	D3	ANESTH, WRIST REPLACEMENT	2.10	1.14	0.36	3.60
01832	D4	ANESTH, WRIST REPLACEMENT	1.86	1.01	0.34	3.21
01832	AD	ANESTH, WRIST REPLACEMENT	0.78	0.42	0.13	1.33
01840	AA	ANESTH, LOWERARM ARTERY SURG	3.37	1.82	0.57	5.76
01840	D2	ANESTH, LOWERARM ARTERY SURG	2.30	1.25	0.39	3.94
01840	D3	ANESTH, LOWERARM ARTERY SURG	2.07	1.12	0.35	3.54
01840	D4	ANESTH, LOWERARM ARTERY SURG	1.84	1.00	0.33	3.17
01840	AD	ANESTH, LOWERARM ARTERY SURG	0.78	0.42	0.13	1.33
01842	AA	ANESTH, LOWERARM EMBOLECTOMY	3.21	1.74	0.55	5.50
01842	D2	ANESTH, LOWERARM EMBOLECTOMY	2.23	1.21	0.38	3.82
01842	D3	ANESTH, LOWERARM EMBOLECTOMY	1.99	1.08	0.34	3.41
01842	D4	ANESTH, LOWERARM EMBOLECTOMY	1.76	0.95	0.32	3.03
01842	AD	ANESTH, LOWERARM EMBOLECTOMY	0.78	0.42	0.13	1.33
01844	AA	ANESTH, VASCULAR SHUNT SURG	3.44	1.86	0.59	5.89
01844	D2	ANESTH, VASCULAR SHUNT SURG	2.34	1.27	0.40	4.01
01844	D3	ANESTH, VASCULAR SHUNT SURG	2.11	1.14	0.36	3.61
01844	D4	ANESTH, VASCULAR SHUNT SURG	1.88	1.02	0.34	3.24
01844	AD	ANESTH, VASCULAR SHUNT SURG	0.78	0.42	0.13	1.33
01850	AA	ANESTH, LOWER ARM VEIN SURG	1.97	1.07	0.34	3.38
01850	D2	ANESTH, LOWER ARM VEIN SURG	1.30	0.70	0.22	2.22
01850	D3	ANESTH, LOWER ARM VEIN SURG	1.18	0.64	0.20	2.02
01850	D4	ANESTH, LOWER ARM VEIN SURG	1.06	0.57	0.19	1.82
01850	AD	ANESTH, LOWER ARM VEIN SURG	0.78	0.42	0.13	1.33
01852	AA	ANESTH, LOWERARM VEIN REPAIR	2.23	1.21	0.38	3.82
01852	D2	ANESTH, LOWERARM VEIN REPAIR	1.53	0.83	0.26	2.62
01852	D3	ANESTH, LOWERARM VEIN REPAIR	1.37	0.74	0.23	2.34
01852	D4	ANESTH, LOWERARM VEIN REPAIR	1.22	0.66	0.22	2.10
01852	AD	ANESTH, LOWERARM VEIN REPAIR	0.78	0.42	0.13	1.33

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
01860	AA	ANESTH, LOWER ARM CASTING	1.97	1.07	0.34	3.38
01860	D2	ANESTH, LOWER ARM CASTING	1.30	0.70	0.22	2.22
01860	D3	ANESTH, LOWER ARM CASTING	1.18	0.64	0.20	2.02
01860	D4	ANESTH, LOWER ARM CASTING	1.06	0.57	0.19	1.82
01860	AD	ANESTH, LOWER ARM CASTING	0.78	0.42	0.13	1.33
01900	AA	ANESTH, UTERUS/TUBE INJECT	1.97	1.07	0.34	3.38
01900	D2	ANESTH, UTERUS/TUBE INJECT	1.30	0.70	0.22	2.22
01900	D3	ANESTH, UTERUS/TUBE INJECT	1.18	0.64	0.20	2.02
01900	D4	ANESTH, UTERUS/TUBE INJECT	1.06	0.57	0.19	1.82
01900	AD	ANESTH, UTERUS/TUBE INJECT	0.78	0.42	0.13	1.33
01902	AA	ANESTH, BURR HOLES, SKULL	4.22	2.29	0.72	7.23
01902	D2	ANESTH, BURR HOLES, SKULL	3.04	1.65	0.52	5.21
01902	D3	ANESTH, BURR HOLES, SKULL	2.70	1.46	0.46	4.62
01902	D4	ANESTH, BURR HOLES, SKULL	2.34	1.27	0.43	4.04
01902	AD	ANESTH, BURR HOLES, SKULL	0.78	0.42	0.13	1.33
01904	AA	ANESTH, SKULL X-RAY INJECT	4.07	2.20	0.69	6.96
01904	D2	ANESTH, SKULL X-RAY INJECT	2.76	1.49	0.47	4.72
01904	D3	ANESTH, SKULL X-RAY INJECT	2.49	1.35	0.42	4.26
01904	D4	ANESTH, SKULL X-RAY INJECT	2.22	1.20	0.40	3.82
01904	AD	ANESTH, SKULL X-RAY INJECT	0.78	0.42	0.13	1.33
01906	AA	ANESTH, LUMBAR MYELOGRAPHY	2.72	1.47	0.46	4.65
01906	D2	ANESTH, LUMBAR MYELOGRAPHY	1.88	1.02	0.32	3.22
01906	D3	ANESTH, LUMBAR MYELOGRAPHY	1.69	0.91	0.29	2.89
01906	D4	ANESTH, LUMBAR MYELOGRAPHY	1.49	0.81	0.27	2.57
01906	AD	ANESTH, LUMBAR MYELOGRAPHY	0.78	0.42	0.13	1.33
01908	AA	ANESTH, CERVICAL MYELOGRAPHY	2.72	1.47	0.46	4.65
01908	D2	ANESTH, CERVICAL MYELOGRAPHY	1.88	1.02	0.32	3.22
01908	D3	ANESTH, CERVICAL MYELOGRAPHY	1.69	0.91	0.29	2.89
01908	D4	ANESTH, CERVICAL MYELOGRAPHY	1.49	0.81	0.27	2.57
01908	AD	ANESTH, CERVICAL MYELOGRAPHY	0.78	0.42	0.13	1.33
01910	AA	ANESTH, SKULL MYELOGRAPHY	4.22	2.29	0.72	7.23
01910	D2	ANESTH, SKULL MYELOGRAPHY	3.04	1.65	0.52	5.21
01910	D3	ANESTH, SKULL MYELOGRAPHY	2.70	1.46	0.46	4.62
01910	D4	ANESTH, SKULL MYELOGRAPHY	2.34	1.27	0.43	4.04
01910	AD	ANESTH, SKULL MYELOGRAPHY	0.78	0.42	0.13	1.33
01912	AA	ANESTH, LUMBAR DISCOGRAPHY	2.72	1.47	0.46	4.65
01912	D2	ANESTH, LUMBAR DISCOGRAPHY	1.88	1.02	0.32	3.22
01912	D3	ANESTH, LUMBAR DISCOGRAPHY	1.69	0.91	0.29	2.89
01912	D4	ANESTH, LUMBAR DISCOGRAPHY	1.49	0.81	0.27	2.57
01912	AD	ANESTH, LUMBAR DISCOGRAPHY	0.78	0.42	0.13	1.33
01914	AA	ANESTH, CERVICAL DISCOGRAPHY	3.42	1.85	0.58	5.85
01914	D2	ANESTH, CERVICAL DISCOGRAPHY	2.33	1.26	0.40	3.99
01914	D3	ANESTH, CERVICAL DISCOGRAPHY	2.10	1.14	0.36	3.60
01914	D4	ANESTH, CERVICAL DISCOGRAPHY	1.86	1.01	0.34	3.21
01914	AD	ANESTH, CERVICAL DISCOGRAPHY	0.78	0.42	0.13	1.33
01916	AA	ANESTH, HEAD ARTERIOGRAM	2.59	1.40	0.44	4.43
01916	D2	ANESTH, HEAD ARTERIOGRAM	1.81	0.98	0.31	3.10
01916	D3	ANESTH, HEAD ARTERIOGRAM	1.62	0.88	0.28	2.78
01916	D4	ANESTH, HEAD ARTERIOGRAM	1.43	0.77	0.26	2.46
01916	AD	ANESTH, HEAD ARTERIOGRAM	0.78	0.42	0.13	1.33
01918	AA	ANESTH, LIMB ARTERIOGRAM	2.72	1.47	0.46	4.65
01918	D2	ANESTH, LIMB ARTERIOGRAM	1.88	1.02	0.32	3.22
01918	D3	ANESTH, LIMB ARTERIOGRAM	1.69	0.91	0.29	2.89
01918	D4	ANESTH, LIMB ARTERIOGRAM	1.49	0.81	0.27	2.57
01918	AD	ANESTH, LIMB ARTERIOGRAM	0.78	0.42	0.13	1.33
01920	AA	ANESTH, CATHETERIZE HEART	3.81	2.06	0.65	6.52
01920	D2	ANESTH, CATHETERIZE HEART	2.63	1.42	0.45	4.50

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL (continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
01920	D3	ANESTH, CATHETERIZE HEART	2.38	1.28	0.40	4.04
01920	D4	ANESTH, CATHETERIZE HEART	2.09	1.13	0.38	3.60
01920	AD	ANESTH, CATHETERIZE HEART	0.78	0.42	0.13	1.33
01921	AA	ANESTH, VESSEL SURGERY	3.18	1.71	0.54	5.41
01921	D2	ANESTH, VESSEL SURGERY	2.30	1.25	0.39	3.94
01921	D3	ANESTH, VESSEL SURGERY	2.03	1.10	0.35	3.48
01921	D4	ANESTH, VESSEL SURGERY	1.76	0.95	0.32	3.03
01921	AD	ANESTH, VESSEL SURGERY	0.78	0.42	0.13	1.33
01922	AA	ANESTH, CAT OR MRI SCAN	4.07	2.20	0.69	6.96
01922	D2	ANESTH, CAT OR MRI SCAN	2.78	1.49	0.47	4.72
01922	D3	ANESTH, CAT OR MRI SCAN	2.49	1.35	0.42	4.26
01922	D4	ANESTH, CAT OR MRI SCAN	2.22	1.20	0.40	3.82
01922	AD	ANESTH, CAT OR MRI SCAN	0.78	0.42	0.13	1.33
01990	AA	SUPPORT FOR ORGAN DONOR	4.07	2.20	0.69	6.96
01990	D2	SUPPORT FOR ORGAN DONOR	2.78	1.49	0.47	4.72
01990	D3	SUPPORT FOR ORGAN DONOR	2.49	1.35	0.42	4.26
01990	D4	SUPPORT FOR ORGAN DONOR	2.22	1.20	0.40	3.82
01990	AD	SUPPORT FOR ORGAN DONOR	0.78	0.42	0.13	1.33
01995	AA	REGIONAL ANESTHESIA, LIMB	2.72	1.47	0.46	4.65
01995	D2	REGIONAL ANESTHESIA, LIMB	1.88	1.02	0.32	3.22
01995	D3	REGIONAL ANESTHESIA, LIMB	1.69	0.91	0.29	2.89
01995	D4	REGIONAL ANESTHESIA, LIMB	1.49	0.81	0.27	2.57
01995	AD	REGIONAL ANESTHESIA, LIMB	0.78	0.42	0.13	1.33
01998	AA	MANAGE DAILY DRUG THERAPY	1.97	1.07	0.34	3.38
01998	D2	MANAGE DAILY DRUG THERAPY	1.30	0.70	0.22	2.22
01998	D3	MANAGE DAILY DRUG THERAPY	1.18	0.64	0.20	2.02
01998	D4	MANAGE DAILY DRUG THERAPY	1.06	0.57	0.19	1.82
01998	AD	MANAGE DAILY DRUG THERAPY	0.78	0.42	0.13	1.33
10040		ACNE SURGERY	0.88	0.33	0.03	1.24
10060		DRAINAGE OF SKIN ABSCESS	0.61	0.45	0.04	1.10
10081		DRAINAGE OF SKIN ABSCESS	2.63	0.84	0.09	3.56
10080		DRAINAGE OF PILONIDAL CYST	1.12	0.51	0.05	1.68
10081		DRAINAGE OF PILONIDAL CYST	2.55	1.05	0.15	3.75
10120		REMOVE FOREIGN BODY	0.77	0.48	0.04	1.29
10121		REMOVE FOREIGN BODY	2.81	0.98	0.13	3.92
10140		DRAINAGE OF HEMATOMA	0.97	0.51	0.05	1.53
10141		DRAINAGE OF HEMATOMA	2.44	0.78	0.10	3.32
10160		PUNCTURE DRAINAGE OF LESION	0.74	0.38	0.04	1.16
10180		COMPLEX DRAINAGE, WOUND	2.33	0.96	0.17	3.46
11000		SURGICAL CLEANSING OF SKIN	3.27	0.42	0.04	3.73
11001		ADDITIONAL CLEANSING OF SKIN	2.37	0.28	0.03	2.68
11040		SURGICAL CLEANSING, ABRASION	2.83	0.41	0.04	3.28
11041		SURGICAL CLEANSING OF SKIN	4.78	0.58	0.07	5.43
11042		CLEANSING OF SKIN/TISSUE	3.33	0.88	0.10	4.11
11043		CLEANSING OF TISSUE/MUSCLE	6.84	1.77	0.31	8.92
11044		CLEANSING TISSUE/MUSCLE/BONE	7.97	2.66	0.45	11.08
11051		TRIM 2 TO 4 SKIN LESIONS	0.58	0.43	0.04	1.03
11100		BIOPSY OF LESION	0.52	0.55	0.04	1.11
11101		BIOPSY, EACH ADDED LESION	0.26	0.29	0.02	0.57
11200		REMOVAL OF SKIN TAGS	0.41	0.43	0.03	0.87
11400		REMOVAL OF SKIN LESION	1.11	0.52	0.05	1.68
11401		REMOVAL OF SKIN LESION	1.35	0.87	0.06	2.08
11402		REMOVAL OF SKIN LESION	1.66	0.90	0.10	2.66
11406		REMOVAL OF SKIN LESION	2.88	1.92	0.32	5.12
11421		REMOVAL OF SKIN LESION	1.57	0.72	0.07	2.36
11422		REMOVAL OF SKIN LESION	1.82	0.95	0.10	2.87
11423		REMOVAL OF SKIN LESION	1.95	1.33	0.16	3.44

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
11440		REMOVAL OF SKIN LESION	1.26	0.68	0.06	2.00
11441		REMOVAL OF SKIN LESION	1.66	0.86	0.08	2.60
11442		REMOVAL OF SKIN LESION	1.85	1.10	0.11	3.06
11444		REMOVAL OF SKIN LESION	3.57	1.46	0.16	5.19
11600		REMOVAL OF SKIN LESION	1.23	1.03	0.09	2.35
11601		REMOVAL OF SKIN LESION	2.00	1.37	0.12	3.49
11602		REMOVAL OF SKIN LESION	2.17	1.79	0.17	4.13
11606		REMOVAL OF SKIN LESION	3.25	3.22	0.51	6.98
11621		REMOVAL OF SKIN LESION	2.04	1.81	0.16	4.01
11622		REMOVAL OF SKIN LESION	2.44	2.20	0.21	4.85
11623		REMOVAL OF SKIN LESION	2.88	2.59	0.29	5.76
11640		REMOVAL OF SKIN LESION	1.57	1.68	0.15	3.40
11641		REMOVAL OF SKIN LESION	2.37	2.13	0.19	4.69
11642		REMOVAL OF SKIN LESION	2.83	2.63	0.26	5.72
11644		REMOVAL OF SKIN LESION	4.78	3.67	0.42	8.87
11700		SURGICAL CLEANSING OF NAILS	0.80	0.34	0.03	1.17
11701		SURGICAL CLEANSING OF NAILS	0.47	0.21	0.02	0.70
11710		SURGICAL CLEANSING OF NAILS	0.46	0.33	0.03	0.82
11711		SURGICAL CLEANSING OF NAILS	0.37	0.17	0.02	0.56
11730		REMOVAL OF NAIL PLATE	0.70	0.45	0.04	1.19
11731		REMOVAL OF SECOND NAIL PLATE	0.73	0.49	0.04	1.26
11732		REMOVE ADDED NAIL PLATE	0.50	0.24	0.02	0.76
11740		DRAIN BLOOD FROM UNDER NAIL	0.83	0.41	0.03	1.27
11750		REMOVAL OF NAIL BED	1.77	2.24	0.21	4.22
11752		REMOVE NAIL BED/FINGER TIP	2.52	2.41	0.30	5.23
11760		RECONSTRUCTION OF NAIL BED	1.64	0.92	0.09	2.65
11762		RECONSTRUCTION OF NAIL BED	3.02	2.49	0.25	5.76
11770		REMOVAL OF PILONIDAL LESION	2.71	2.37	0.35	5.43
11771		REMOVAL OF PILONIDAL LESION	5.48	4.73	0.96	11.17
11772		REMOVAL OF PILONIDAL LESION	6.75	4.93	1.01	12.69
11900		INJECTION INTO SKIN LESIONS	0.42	0.25	0.02	0.69
12001		REPAIR SUPERFICIAL WOUND(S)	1.02	0.60	0.05	1.67
12002		REPAIR SUPERFICIAL WOUND(S)	1.16	0.82	0.06	2.06
12004		REPAIR SUPERFICIAL WOUND(S)	1.58	1.14	0.10	2.82
12005		REPAIR SUPERFICIAL WOUND(S)	2.98	1.44	0.13	4.55
12006		REPAIR SUPERFICIAL WOUND(S)	3.85	1.66	0.17	5.68
12007		REPAIR SUPERFICIAL WOUND(S)	4.32	1.41	0.13	5.86
12011		REPAIR SUPERFICIAL WOUND(S)	0.94	0.76	0.06	1.76
12013		REPAIR SUPERFICIAL WOUND(S)	1.33	1.04	0.08	2.45
12014		REPAIR SUPERFICIAL WOUND(S)	2.56	1.20	0.10	3.86
12015		REPAIR SUPERFICIAL WOUND(S)	3.33	1.62	0.13	5.08
12016		REPAIR SUPERFICIAL WOUND(S)	4.11	2.14	0.18	6.43
12017	*	REPAIR SUPERFICIAL WOUND(S)	4.96	3.20	0.30	8.45
12018	*	REPAIR SUPERFICIAL WOUND(S)	5.82	2.29	0.20	8.31
12020		CLOSURE OF SPLIT WOUND	2.73	1.14	0.17	4.04
12021		CLOSURE OF SPLIT WOUND	1.90	0.61	0.10	2.61
12031		LAYER CLOSURE OF WOUND(S)	1.41	0.71	0.07	2.19
12032		LAYER CLOSURE OF WOUND(S)	1.76	1.06	0.10	2.92
12034		LAYER CLOSURE OF WOUND(S)	3.05	1.48	0.15	4.68
12035		LAYER CLOSURE OF WOUND(S)	3.58	2.02	0.24	5.84
12036		LAYER CLOSURE OF WOUND(S)	4.25	2.33	0.36	6.94
12037		LAYER CLOSURE OF WOUND(S)	4.91	3.05	0.47	8.43
12041		LAYER CLOSURE OF WOUND(S)	1.66	0.84	0.08	2.58
12042		LAYER CLOSURE OF WOUND(S)	2.67	1.18	0.11	4.16
12044		LAYER CLOSURE OF WOUND(S)	3.27	1.65	0.16	5.08
12045		LAYER CLOSURE OF WOUND(S)	3.62	2.01	0.22	6.05
12046		LAYER CLOSURE OF WOUND(S)	4.46	2.59	0.32	7.37

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCP ^{CS}	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
12047	*	LAYER CLOSURE OF WOUND(S)	4.88	3.58	0.48	8.94
12051		LAYER CLOSURE OF WOUND(S)	1.63	0.96	0.09	2.68
12052		LAYER CLOSURE OF WOUND(S)	2.35	1.46	0.13	3.94
12053		LAYER CLOSURE OF WOUND(S)	3.25	1.82	0.17	5.24
12054		LAYER CLOSURE OF WOUND(S)	3.83	2.62	0.24	6.49
12055		LAYER CLOSURE OF WOUND(S)	4.65	3.01	0.33	7.99
12056	*	LAYER CLOSURE OF WOUND(S)	5.51	4.32	0.47	10.30
12057	*	LAYER CLOSURE OF WOUND(S)	6.28	2.58	0.22	9.08
13100		REPAIR OF WOUND OR LESION	2.97	1.13	0.13	4.23
13101		REPAIR OF WOUND OR LESION	3.52	2.04	0.25	5.81
13120		REPAIR OF WOUND OR LESION	2.86	1.38	0.17	4.41
13121		REPAIR OF WOUND OR LESION	3.71	2.72	0.33	6.76
13131		REPAIR OF WOUND OR LESION	3.43	2.08	0.24	5.73
13132		REPAIR OF WOUND OR LESION	4.08	4.68	0.52	9.28
13150		REPAIR OF WOUND OR LESION	3.53	1.83	0.25	5.61
13151		REPAIR OF WOUND OR LESION	4.19	2.70	0.38	7.25
13152		REPAIR OF WOUND OR LESION	5.89	5.22	0.70	11.81
13160		LATE CLOSURE OF WOUND	9.00	3.36	0.60	12.96
13300		REPAIR OF WOUND OR LESION	4.74	5.70	0.85	11.29
14000		SKIN TISSUE REARRANGEMENT	4.66	3.44	0.45	8.55
14001		SKIN TISSUE REARRANGEMENT	6.83	4.94	0.79	12.36
14020		SKIN TISSUE REARRANGEMENT	5.25	5.23	0.68	11.14
14021		SKIN TISSUE REARRANGEMENT	8.17	6.56	0.98	15.71
14040		SKIN TISSUE REARRANGEMENT	7.17	7.16	0.85	15.18
14041		SKIN TISSUE REARRANGEMENT	9.51	8.63	1.08	19.22
14060		SKIN TISSUE REARRANGEMENT	4.92	8.16	1.09	14.17
14061		SKIN TISSUE REARRANGEMENT	10.55	10.96	1.33	22.84
14300		SKIN TISSUE REARRANGEMENT	10.32	11.80	1.90	24.02
14350		SKIN TISSUE REARRANGEMENT	9.49	5.74	0.97	16.20
15000		SKIN GRAFT PROCEDURE	2.08	3.12	0.53	5.73
15050		SKIN PINCH GRAFT PROCEDURE	3.80	1.46	0.22	5.48
15100		SKIN SPLIT GRAFT PROCEDURE	8.18	4.66	0.92	13.76
15260		SKIN FULL GRAFT PROCEDURE	8.11	7.97	1.06	17.14
15400		SKIN HETEROGRAFT PROCEDURE	4.17	0.92	0.14	5.23
15730		PREPARATION FOR SKIN GRAFT	5.33	11.29	1.74	18.36
15740		ISLAND PEDICLE FLAP GRAFT	8.14	10.22	1.59	19.95
15750		NEUROVASCULAR PEDICLE GRAFT	8.52	10.52	1.81	20.85
15755		MICROVASCULAR FLAP GRAFT	27.07	29.30	5.16	61.53
15791		CHEMICAL PEEL, OF SKIN	4.90	0.43	0.03	5.36
15851		REMOVAL OF SUTURES	0.57	0.31	0.03	0.91
15920		REMOVAL OF TAIL BONE ULCER	7.83	2.67	0.51	11.01
15922		REMOVAL OF TAIL BONE ULCER	9.74	5.25	0.87	15.86
15931		REMOVE SACRUM PRESSURE SORE	8.63	2.79	0.53	11.95
15933		REMOVE SACRUM PRESSURE SORE	10.24	7.10	1.47	18.81
15934		REMOVE SACRUM PRESSURE SORE	12.11	7.60	1.52	21.23
15935		REMOVE SACRUM PRESSURE SORE	13.86	11.67	2.37	27.90
15936		REMOVE SACRUM PRESSURE SORE	12.02	8.48	1.71	22.21
15937		REMOVE SACRUM PRESSURE SORE	13.78	13.10	2.60	29.48
15940		REMOVAL OF PRESSURE SORE	8.70	3.40	0.69	12.79
15941		REMOVAL OF PRESSURE SORE	10.78	7.19	1.42	19.39
15944		REMOVAL OF PRESSURE SORE	10.82	9.18	1.79	21.79
15945		REMOVAL OF PRESSURE SORE	12.03	11.16	2.07	25.26
15946		REMOVAL OF PRESSURE SORE	17.83	17.32	3.37	38.52
15950		REMOVE THIGH PRESSURE SORE	7.22	2.91	0.56	10.69
15951		REMOVE THIGH PRESSURE SORE	10.17	7.75	1.60	19.52
15952		REMOVE THIGH PRESSURE SORE	10.82	7.30	1.41	19.53
15953		REMOVE THIGH PRESSURE SORE	12.10	7.42	1.59	21.11

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
15954	*	REMOVE THIGH PRESSURE SORE	12.33	7.19	1.53	21.05
15955	*	REMOVE THIGH PRESSURE SORE	12.81	11.08	2.30	26.19
15956		REMOVE THIGH PRESSURE SORE	14.80	17.44	3.44	35.68
15958		REMOVE THIGH PRESSURE SORE	14.74	19.05	3.75	37.54
15960		REMOVE HEEL PRESSURE SORE	6.72	2.01	0.37	9.10
15961		REMOVE HEEL PRESSURE SORE	9.33	5.42	1.10	15.85
15964		REMOVE HEEL PRESSURE SORE	8.77	3.05	0.54	12.36
15965	*	REMOVE HEEL PRESSURE SORE	10.97	7.78	1.49	20.24
15966	*	REMOVE HEEL PRESSURE SORE	9.73	4.75	0.90	15.38
15967	*	REMOVE HEEL PRESSURE SORE	11.48	8.80	1.81	22.09
15970		REMOVE LEG PRESSURE SORE	6.92	1.44	0.29	8.65
15971	*	REMOVE LEG PRESSURE SORE	8.21	3.90	0.72	12.83
15972		REMOVE LEG PRESSURE SORE	8.08	4.30	0.87	13.03
15973	*	REMOVE LEG PRESSURE SORE	10.77	9.00	1.73	21.50
15974	*	REMOVE LEG PRESSURE SORE	12.68	10.43	2.06	25.17
15975	*	REMOVE LEG PRESSURE SORE	13.42	11.26	2.15	26.83
15980	*	REMOVE KNEE PRESSURE SORE	7.65	3.70	0.87	12.02
15981	*	REMOVE KNEE PRESSURE SORE	9.20	11.94	2.08	23.22
15982	*	REMOVE KNEE PRESSURE SORE	10.81	8.12	1.23	18.16
15983	*	REMOVE KNEE PRESSURE SORE	12.76	4.30	0.91	17.97
16000		INITIAL TREATMENT OF BURN(S)	0.57	0.35	0.03	0.95
16010		TREATMENT OF BURN(S)	0.72	0.32	0.03	1.07
16015		TREATMENT OF BURN(S)	2.05	1.67	0.31	4.03
16020		TREATMENT OF BURN(S)	0.49	0.34	0.03	0.86
16025		TREATMENT OF BURN(S)	1.49	0.48	0.05	2.00
16030		TREATMENT OF BURN(S)	1.68	0.53	0.07	2.28
16035		INCISION OF BURN SCAB	4.80	1.55	0.23	6.58
17000		DESTRUCTION OF FACE LESION	0.35	0.43	0.03	0.81
17001		DESTRUCTION OF ADDED LESIONS	0.05	0.20	0.02	0.27
17002		DESTRUCTION OF ADDED LESIONS	0.05	0.09	0.01	0.15
17100		DESTRUCTION OF SKIN LESION	0.25	0.36	0.03	0.64
17101		DESTRUCTION OF 2ND LESION	0.09	0.18	0.01	0.28
17102		DESTRUCTION OF ADDED LESIONS	0.03	0.08	0.01	0.12
17304		CHEMOSURGERY OF SKIN LESION	4.36	4.25	0.34	8.95
19000		DRAINAGE OF BREAST LESION	0.54	0.38	0.07	0.99
19001		DRAIN ADDED BREAST LESION	0.32	0.23	0.04	0.59
19020		INCISION OF BREAST LESION	3.57	1.41	0.27	5.25
19030		INJECTION FOR BREAST X-RAY	1.98	0.69	0.08	2.73
19100		BIOPSY OF BREAST	0.55	0.62	0.10	1.27
19101		BIOPSY OF BREAST	3.32	2.43	0.47	6.22
19110		NIPPLE EXPLORATION	4.42	2.49	0.53	7.44
19112	*	EXCISE BREAST DUCT FISTULA	3.75	1.98	0.24	5.97
19120		REMOVAL OF BREAST LESION	5.14	2.98	0.63	8.75
19140		REMOVAL OF BREAST TISSUE	5.20	4.42	0.93	10.55
19160		REMOVAL OF BREAST TISSUE	5.60	4.17	0.89	10.66
19162		REMOVE BREAST TISSUE, NODES	10.54	9.96	2.09	22.59
19180		REMOVAL OF BREAST	8.68	5.74	1.19	15.59
19182		REMOVAL OF BREAST TISSUE	7.74	6.21	1.30	15.25
19200		EXTENSIVE BREAST SURGERY	13.18	10.81	2.27	26.26
19220		EXTENSIVE BREAST SURGERY	15.12	11.22	2.50	28.84
19240		EXTENSIVE BREAST SURGERY	13.29	9.94	2.10	25.33
19260		REMOVAL OF CHEST WALL LESION	14.78	4.87	0.98	20.63
19271		REVISION OF CHEST WALL	18.14	11.72	2.43	32.29
19272	*	EXTENSIVE CHEST WALL SURGERY	20.68	7.29	1.81	29.58
20000		INCISION OF ABSCESS	1.05	0.85	0.08	1.98
20200		MUSCLE BIOPSY	1.97	1.14	0.18	3.29
20205		DEEP MUSCLE BIOPSY	3.81	1.89	0.32	6.02

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCL	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
20206		NEEDLE BIOPSY, MUSCLE	0.72	0.91	0.12	1.75
20220		BONE BIOPSY, TROCAR/NEEDLE	1.47	1.35	0.09	2.91
20225		BONE BIOPSY, TROCAR/NEEDLE	3.11	2.24	0.24	5.59
20240		BONE BIOPSY, EXCISIONAL	4.13	1.93	0.18	6.24
20245		BONE BIOPSY, EXCISIONAL	4.91	3.50	0.42	8.83
20250		OPEN BONE BIOPSY	5.64	3.17	0.37	9.38
20251		OPEN BONE BIOPSY	6.37	5.29	0.81	12.47
20500		INJECTION OF SINUS TRACT	0.44	0.37	0.03	0.84
20501		INJECT SINUS TRACT FOR X-RAY	0.45	0.39	0.03	0.87
20520		REMOVAL OF FOREIGN BODY	1.03	0.70	0.08	1.81
20525		REMOVAL OF FOREIGN BODY	4.64	2.07	0.29	7.00
20550		INJECTION TREATMENT	0.47	0.38	0.04	0.89
20600		DRAINAGE JOINT/BURSA/CYST	0.37	0.50	0.05	0.92
20605		DRAINAGE JOINT/BURSA/CYST	0.40	0.47	0.05	0.92
20610		INJECT/DRAIN JOINT/BURSA	0.48	0.47	0.05	1.00
20615		TREATMENT OF BONE CYST	2.37	0.50	0.05	2.92
20650		INSERT AND REMOVE BONE PIN	1.22	1.07	0.13	2.42
20660		APPLY, REMOVE FIXATION DEVICE	4.11	1.55	0.20	5.86
20661		APPLICATION OF HEAD BRACE	6.13	3.60	0.62	10.35
20662	*	APPLICATION OF PELVIS BRACE	7.46	5.25	0.71	13.42
20663	*	APPLICATION OF THIGH BRACE	6.77	1.60	0.27	8.64
20665		REMOVAL OF FIXATION DEVICE	0.80	0.52	0.07	1.19
20670		REMOVAL OF SUPPORT IMPLANT	0.98	0.77	0.11	1.86
20680		REMOVAL OF SUPPORT IMPLANT	3.46	3.39	0.53	7.38
20680		APPLY BONE FIXATION DEVICE	2.69	3.20	0.51	6.40
20690		REMOVAL OF BONE FOR GRAFT	7.17	5.07	0.82	13.06
20902		REMOVAL OF FASCIA FOR GRAFT	5.16	2.46	0.29	7.91
20920	*	RECORD FLUID PRESSURE, MUSCLE	2.47	1.03	0.16	3.66
20950	*	MICROVASCULAR BONE GRAFT	21.63	8.66	1.40	31.69
20962	*	ELECTRICAL BONE STIMULATION	1.43	2.47	0.38	4.28
20974		ELECTRICAL BONE STIMULATION	5.93	2.55	0.39	8.87
20975		RECONSTRUCTION OF JAW JOINT	16.72	23.79	2.12	42.63
21240		TREATMENT OF NOSE FRACTURE	2.49	2.83	0.34	5.66
21320		REPAIR CHEEK BONE FRACTURE	14.85	12.51	1.66	29.02
21365		REPAIR LOWER JAW FRACTURE	9.06	6.70	0.81	16.57
21455		REPAIR LOWER JAW FRACTURE	15.08	15.70	1.61	32.39
21470		DRAIN NECK/CHEST LESION	4.93	1.59	0.22	6.74
21501		DRAIN CHEST LESION	6.65	4.04	0.72	11.61
21502	*	DRAINAGE OF BONE LESION	8.88	3.51	0.47	12.86
21510		BIOPSY OF NECK/CHEST	3.11	0.86	0.11	4.08
21550		REMOVE LESION NECK/CHEST	4.34	1.56	0.23	6.13
21555		REMOVE LESION NECK/CHEST	5.61	3.84	0.65	10.10
21556		REMOVE TUMOR, NECK OR CHEST	7.59	7.09	1.24	15.92
21557		PARTIAL REMOVAL OF RIB	6.65	4.49	0.88	12.02
21600		PARTIAL REMOVAL OF RIB	6.36	1.56	0.17	8.09
21610	*	REMOVAL OF RIB	9.59	10.09	1.96	21.64
21615	*	REMOVAL OF RIB AND NERVES	11.80	13.00	2.65	27.45
21616	*	PARTIAL REMOVAL OF STERNUM	7.98	5.83	1.11	14.92
21620		STERNAL DEBRIDEMENT	6.83	4.31	0.80	11.94
21627	*	EXTENSIVE STERNUM SURGERY	14.08	12.46	2.23	28.77
21630	*	EXTENSIVE STERNUM SURGERY	17.12	8.56	1.70	27.38
21632	*	EXTENSIVE STERNUM SURGERY	14.38	13.35	2.50	30.23
21633	*	TREATMENT OF RIB FRACTURE	1.49	0.80	0.07	2.36
21800		BIOPSY SOFT TISSUE OF BACK	2.14	0.73	0.10	2.97
21920	*	REMOVE PART, LUMBAR VERTEBRA	9.33	4.46	0.64	14.43
22102	*	RECONSTRUCT NECK SPINE	23.58	14.50	2.35	40.43
22140		TREAT SPINE PROCESS FRACTURE	4.27	2.30	0.31	6.88
22305						

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
22310		TREAT SPINE FRACTURE	6.31	4.43	0.66	11.40
22315		TREAT SPINE FRACTURE	8.88	5.27	0.83	14.98
22325	*	REPAIR OF SPINE FRACTURE	18.25	6.97	1.05	26.27
22326	*	REPAIR NECK SPINE FRACTURE	19.58	14.33	2.38	36.29
22327	*	REPAIR THORAX SPINE FRACTURE	18.65	6.35	0.88	25.88
22548	*	NECK SPINE FUSION	25.58	23.13	3.88	52.59
22554		NECK SPINE FUSION	15.03	20.57	3.65	39.25
22556		THORAX SPINE FUSION	24.62	15.77	2.85	43.24
22558		LUMBAR SPINE FUSION	23.50	18.22	3.11	44.83
22590		SPINE & SKULL SPINAL FUSION	20.14	21.74	3.46	45.34
22595		NECK SPINAL FUSION	20.43	22.39	3.85	46.67
22600		NECK SPINE FUSION	19.17	15.48	2.83	37.48
22610		THORAX SPINE FUSION	21.53	17.55	2.68	41.76
22612		LUMBAR SPINE FUSION	20.69	19.50	3.13	43.32
22625		LUMBAR SPINE FUSION	21.15	22.44	3.64	47.23
22630		LUMBAR SPINE FUSION	22.22	18.74	3.18	44.14
22802		FUSION OF SPINE	22.76	28.30	4.63	55.69
22820		HARVESTING OF BONE	5.74	4.34	0.72	10.80
22830		EXPLORATION OF SPINAL FUSION	10.86	12.45	2.03	25.34
22840		INSERT SPINE FIXATION DEVICE	21.78	13.69	2.53	38.00
22842		INSERT SPINE FIXATION DEVICE	21.20	21.59	3.53	46.32
22900		REMOVE ABDOMINAL WALL LESION	6.97	3.00	0.60	10.57
23065		BIOPSY SHOULDER TISSUES	2.37	0.69	0.09	3.15
23068		BIOPSY SHOULDER TISSUES	4.26	1.22	0.12	5.60
23075		REMOVAL OF SHOULDER LESION	2.49	1.62	0.27	4.38
23076		REMOVAL OF SHOULDER LESION	6.30	3.52	0.65	10.47
23077		REMOVE TUMOR OF SHOULDER	11.65	6.78	1.23	19.66
23100	*	BIOPSY OF SHOULDER JOINT	5.99	7.72	1.23	14.94
23101		SHOULDER JOINT SURGERY	5.53	7.24	1.19	13.96
23105		REMOVE SHOULDER JOINT LINING	8.23	10.29	1.69	20.21
23108	*	INCISION OF COLLARBONE JOINT	5.90	7.32	1.20	14.42
23120		PARTIAL REMOVAL, COLLARBONE	7.06	4.63	0.74	12.43
23125	*	REMOVAL OF COLLARBONE	9.46	9.82	1.46	20.74
23130		PARTIAL REMOVAL, SHOULDERBONE	7.89	7.02	1.13	16.04
23140		REMOVAL OF BONE LESION	6.84	3.89	0.66	11.39
23145	*	REMOVAL OF BONE LESION	9.08	5.32	0.87	15.25
23146	*	REMOVAL OF BONE LESION	7.80	4.73	0.91	13.44
23150	*	REMOVAL OF HUMERUS LESION	6.26	5.31	0.71	14.30
23155	*	REMOVAL OF HUMERUS LESION	10.19	9.70	1.52	21.41
23156	*	REMOVAL OF HUMERUS LESION	8.50	4.93	0.81	14.24
23170	*	REMOVE COLLARBONE LESION	6.65	3.75	0.56	10.96
23172	*	REMOVE SHOULDER BLADE LESION	6.62	2.15	0.27	9.04
23174	*	REMOVE HUMERUS LESION	6.56	6.85	1.31	18.72
23180		REMOVE COLLARBONE LESION	7.69	3.63	0.57	11.89
23182	*	REMOVE SHOULDERBLADE LESION	7.91	4.54	0.76	13.21
23184	*	REMOVE HUMERUS LESION	9.15	7.82	1.19	18.16
23190	*	PARTIAL REMOVAL OF SCAPULA	7.21	5.25	0.84	13.30
23195	*	REMOVAL OF HEAD OF HUMERUS	9.56	8.90	1.45	19.91
23200	*	REMOVAL OF COLLARBONE	11.74	4.32	0.62	16.68
23210	*	REMOVAL OF SHOULDERBLADE	12.10	12.23	1.86	26.19
23220	*	PARTIAL REMOVAL OF HUMERUS	14.15	14.30	2.41	30.86
23221	*	PARTIAL REMOVAL OF HUMERUS	17.65	3.62	0.24	21.51
23222	*	PARTIAL REMOVAL OF HUMERUS	17.69	18.78	2.86	39.33
23330		REMOVE SHOULDER FOREIGN BODY	1.90	0.56	0.06	2.52
23331		REMOVE SHOULDER FOREIGN BODY	7.32	1.15	0.22	8.69
23332	*	REMOVE SHOULDER FOREIGN BODY	11.24	10.63	1.67	23.54
23350		INJECTION FOR SHOULDER X-RAY	1.38	0.56	0.05	1.99

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
23395	*	MUSCLE TRANSFER, SHOULDER/ARM	13.19	16.00	2.58	31.77
23397	*	MUSCLE TRANSFERS	16.18	17.22	2.89	36.29
23400	*	FIXATION OF SHOULDERBLADE	13.76	6.20	0.92	20.88
23405	*	INCISION OF TENDON & MUSCLE	8.46	3.98	0.55	12.99
23406	*	INCISE TENDON(S) & MUSCLE(S)	10.97	11.10	1.88	23.95
23410	*	REPAIR OF TENDON(S)	12.63	11.39	1.82	25.84
23412	*	REPAIR OF TENDON(S)	13.48	13.98	2.25	29.71
23415	*	RELEASE OF SHOULDER LIGAMENT	10.11	4.63	0.73	15.47
23420	*	REPAIR OF SHOULDER INJURY	13.38	15.53	2.49	31.40
23430	*	REPAIR BICEPS TENDON RUPTURE	10.17	7.09	1.15	18.41
23440	*	REMOVAL/TRANSPLANT TENDON	10.71	7.03	1.14	18.88
23450	*	REPAIR SHOULDER CAPSULE	13.65	12.76	2.01	28.42
23455	*	REPAIR SHOULDER CAPSULE	14.68	16.08	2.58	33.34
23460	*	REPAIR SHOULDER CAPSULE	15.58	14.32	2.27	32.17
23462	*	REPAIR SHOULDER CAPSULE	15.52	12.94	2.12	30.58
23465	*	REPAIR SHOULDER CAPSULE	16.08	15.30	2.46	33.84
23468	*	REPAIR SHOULDER CAPSULE	14.50	15.85	2.36	32.71
23470	*	RECONSTRUCT SHOULDER JOINT	17.12	17.46	2.77	37.35
23472	*	RECONSTRUCT SHOULDER JOINT	17.09	31.83	5.08	54.00
23480	*	REVISION OF COLLARBONE	11.23	5.21	0.72	17.16
23485	*	REVISION OF COLLARBONE	13.47	9.47	1.55	24.49
23490	*	REINFORCE CLAVICLE	12.02	0.30	0.02	12.34
23491	*	REINFORCE SHOULDER BONES	14.48	10.50	1.74	26.72
23500	*	TREAT CLAVICLE FRACTURE	2.55	1.61	0.20	4.36
23505	*	TREAT CLAVICLE FRACTURE	3.76	2.48	0.36	6.60
23510	*	REPAIR CLAVICLE FRACTURE	5.51	1.64	0.20	7.35
23515	*	REPAIR CLAVICLE FRACTURE	7.45	6.97	1.10	15.52
23520	*	TREAT CLAVICLE DISLOCATION	2.70	1.36	0.19	4.25
23525	*	TREAT CLAVICLE DISLOCATION	3.62	2.03	0.27	5.92
23530	*	REPAIR CLAVICLE DISLOCATION	7.48	7.67	1.06	16.19
23532	*	REPAIR CLAVICLE DISLOCATION	8.06	12.06	1.97	22.09
23540	*	TREAT CLAVICLE DISLOCATION	2.58	1.49	0.18	4.25
23545	*	TREAT CLAVICLE DISLOCATION	3.25	1.97	0.28	5.50
23550	*	REPAIR CLAVICLE DISLOCATION	7.06	6.86	1.02	14.94
23552	*	REPAIR CLAVICLE DISLOCATION	8.31	12.47	2.00	22.78
23570	*	TREAT SHOULDERBLADE FRACTURE	2.64	1.73	0.25	4.62
23575	*	TREAT SHOULDERBLADE FRACTURE	4.11	2.48	0.38	6.97
23580	*	REPAIR SCAPULA FRACTURE	5.22	2.86	0.32	8.40
23585	*	REPAIR SCAPULA FRACTURE	6.93	7.67	1.26	17.86
23600	*	TREAT HUMERUS FRACTURE	3.10	2.83	0.41	6.34
23605	*	TREAT HUMERUS FRACTURE	4.83	4.61	0.73	10.17
23610	*	REPAIR HUMERUS FRACTURE	6.07	4.80	0.73	11.60
23615	*	REPAIR HUMERUS FRACTURE	8.72	11.37	1.63	21.92
23620	*	TREAT HUMERUS FRACTURE	2.69	2.63	0.39	5.71
23625	*	TREAT HUMERUS FRACTURE	3.87	3.57	0.56	8.00
23630	*	REPAIR HUMERUS FRACTURE	7.32	7.46	1.20	15.98
23650	*	TREAT SHOULDER DISLOCATION	3.44	2.09	0.23	5.76
23655	*	TREAT SHOULDER DISLOCATION	4.54	2.96	0.44	7.94
23658	*	REPAIR SHOULDER DISLOCATION	6.41	2.39	0.39	9.19
23660	*	REPAIR SHOULDER DISLOCATION	7.53	7.29	1.09	15.91
23665	*	TREAT DISLOCATION/FRACTURE	4.43	3.50	0.54	8.47
23670	*	REPAIR DISLOCATION/FRACTURE	7.91	9.63	1.44	18.98
23675	*	TREAT DISLOCATION/FRACTURE	5.94	4.05	0.84	10.63
23680	*	REPAIR DISLOCATION/FRACTURE	10.03	13.39	2.16	25.58
23700	*	FIXATION OF SHOULDER	1.45	1.95	0.30	3.70
23800	*	FUSION OF SHOULDER JOINT	14.16	12.90	1.89	28.95
23802	*	FUSION OF SHOULDER JOINT	15.59	19.09	3.12	37.80

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
23931		DRAINAGE OF ARM BURSA	1.73	0.74	0.10	2.57
24065		BIOPSY ARM/ELBOW SOFT TISSUE	2.16	0.80	0.10	3.06
24066		BIOPSY ARM/ELBOW SOFT TISSUE	5.28	2.40	0.37	8.05
24075		REMOVE ARM/ELBOW LESION	4.02	1.89	0.31	6.22
24076		REMOVE ARM/ELBOW LESION	6.39	3.69	0.68	10.76
24077		REMOVE TUMOR OF ARM/ELBOW	11.88	7.28	1.35	20.51
24100	*	BIOPSY ELBOW JOINT LINING	4.97	5.97	0.84	11.78
24101		EXPLORE/TREAT ELBOW JOINT	6.19	8.65	1.42	16.26
24102		REMOVE ELBOW JOINT LINING	8.03	11.14	1.81	20.98
24105		REMOVAL OF ELBOW BURSA	3.65	3.97	0.67	8.29
24110	*	REMOVE HUMERUS LESION	7.52	7.43	1.17	16.12
24115	*	REMOVE/GRAFT BONE LESION	9.44	9.58	1.67	20.79
24116	*	REMOVE/GRAFT BONE LESION	11.82	9.62	1.45	22.89
24120		REMOVE ELBOW LESION	6.75	5.58	0.87	13.20
24125	*	REMOVE/GRAFT BONE LESION	7.86	3.40	0.41	11.67
24130		REMOVAL OF HEAD OF RADIUS	6.33	6.96	1.11	14.40
24134	*	REMOVAL OF ARM BONE LESION	9.53	3.68	0.54	13.75
24136	*	REMOVE RADIUS BONE LESION	7.79	5.14	0.54	13.47
24138	*	REMOVE ELBOW BONE LESION	6.60	4.82	0.79	12.21
24140	*	PARTIAL REMOVAL OF ARM BONE	9.10	6.81	1.48	19.37
24145	*	PARTIAL REMOVAL OF RADIUS	7.57	4.54	0.82	12.93
24147		PARTIAL REMOVAL OF ELBOW	6.67	6.34	1.03	14.04
24150	*	EXTENSIVE HUMERUS SURGERY	13.20	13.44	2.14	28.78
24151	*	EXTENSIVE HUMERUS SURGERY	15.57	18.57	2.84	36.98
24152	*	EXTENSIVE RADIUS SURGERY	10.11	11.27	1.67	23.05
24153	*	EXTENSIVE RADIUS SURGERY	11.64	9.03	1.48	22.15
24155	*	REMOVAL OF ELBOW JOINT	11.60	12.65	2.02	26.47
24200		REMOVAL OF ARM FOREIGN BODY	1.82	0.56	0.06	2.44
24435		REPAIR HUMERUS WITH GRAFT	12.96	16.60	2.99	34.55
24500		TREAT HUMERUS FRACTURE	3.57	2.40	0.33	6.30
24505		TREAT HUMERUS FRACTURE	5.12	4.61	0.73	10.46
24506		TREAT HUMERUS FRACTURE	6.03	7.91	1.27	17.21
24510	*	REPAIR HUMERUS FRACTURE	7.74	5.64	0.90	14.28
24515		REPAIR HUMERUS FRACTURE	11.93	10.03	1.82	23.58
24530		TREAT HUMERUS FRACTURE	3.87	2.61	0.39	6.87
24531	*	TREAT HUMERUS FRACTURE	6.84	3.08	0.44	10.36
24535		TREAT HUMERUS FRACTURE	6.91	4.94	0.79	12.64
24536	*	TREAT HUMERUS FRACTURE	8.50	4.39	0.80	13.69
24538		TREAT HUMERUS FRACTURE	9.41	8.55	1.35	19.31
24540	*	TREAT HUMERUS FRACTURE	7.56	1.98	0.19	9.73
24542	*	TREAT HUMERUS FRACTURE	10.02	6.25	1.35	19.62
24545		REPAIR HUMERUS FRACTURE	12.91	10.28	1.65	24.84
24560		TREAT HUMERUS FRACTURE	3.43	2.12	0.28	5.83
24585	*	TREAT HUMERUS FRACTURE	5.54	3.36	0.53	9.43
24570	*	REPAIR HUMERUS FRACTURE	6.40	3.59	0.59	10.58
24575		REPAIR HUMERUS FRACTURE	10.53	5.77	1.02	17.32
24576		TREAT HUMERUS FRACTURE	3.78	2.15	0.32	6.25
24577	*	TREAT HUMERUS FRACTURE	5.79	3.91	0.81	10.31
24578	*	REPAIR HUMERUS FRACTURE	7.90	6.10	1.00	15.00
24579		REPAIR HUMERUS FRACTURE	11.52	8.61	1.39	21.52
24580		TREAT ELBOW FRACTURE	6.03	3.17	0.43	9.63
24581		TREAT ELBOW FRACTURE	6.12	5.63	0.89	14.64
24583	*	REPAIR ELBOW FRACTURE	9.46	5.39	0.94	15.79
24585		REPAIR ELBOW FRACTURE	13.89	13.10	2.09	29.08
24586	*	REPAIR ELBOW FRACTURE	15.26	12.45	1.92	29.63
24587	*	REPAIR ELBOW FRACTURE	15.15	16.24	2.56	33.95
24588	*	REPAIR ELBOW FRACTURE	15.95	14.52	2.36	32.85

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
24600		TREAT ELBOW DISLOCATION	4.39	1.94	0.25	6.58
24605		TREAT ELBOW DISLOCATION	5.40	2.31	0.36	8.07
24610	*	REPAIR ELBOW DISLOCATION	7.71	3.93	0.61	12.25
24615		REPAIR ELBOW DISLOCATION	9.32	9.55	1.52	20.39
24620		TREAT ELBOW FRACTURE	7.03	3.92	0.60	11.55
24625	*	REPAIR ELBOW FRACTURE	9.30	5.43	0.83	15.56
24635		REPAIR ELBOW FRACTURE	13.19	11.48	1.84	26.49
24640	*	TREAT ELBOW DISLOCATION	0.48	1.03	0.08	1.59
24650		TREAT RADIUS FRACTURE	2.81	2.20	0.28	5.29
24655		TREAT RADIUS FRACTURE	4.44	2.97	0.45	7.86
24660	*	REPAIR RADIUS FRACTURE	5.71	3.33	0.45	9.49
24665		REPAIR RADIUS FRACTURE	8.98	7.45	1.19	17.62
24666	*	REPAIR RADIUS FRACTURE	9.43	10.68	1.67	21.78
24670		TREATMENT OF ULNA FRACTURE	3.37	1.98	0.27	5.62
24675		TREATMENT OF ULNA FRACTURE	4.79	3.32	0.50	8.61
24680	*	REPAIR ULNA FRACTURE	6.93	4.09	0.89	11.71
24685		REPAIR ULNA FRACTURE	9.93	8.31	1.32	19.56
24800	*	FUSION OF ELBOW JOINT	11.42	5.88	0.79	17.89
24802	*	FUSION/GRAFT OF ELBOW JOINT	13.58	15.88	2.60	32.06
24900		AMPUTATION OF UPPER ARM	9.32	7.93	1.44	18.69
25000		INCISION OF TENDON SHEATH	3.36	3.99	0.63	7.98
25023	*	DECOMPRESSION OF FOREARM	12.54	5.94	1.01	19.49
25065		BIOPSY FOREARM SOFT TISSUES	2.54	0.68	0.07	3.29
25066		BIOPSY FOREARM SOFT TISSUES	4.10	1.46	0.21	5.77
25075		REMOVAL OF FOREARM LESION	3.84	2.01	0.33	6.18
25076		REMOVAL OF FOREARM LESION	5.06	3.84	0.69	9.59
25077	*	REMOVE TUMOR, FOREARM/WRIST	9.82	6.90	1.31	18.03
25085	*	INCISION OF WRIST CAPSULE	5.46	5.33	0.82	11.61
25100	*	BIOPSY OF WRIST JOINT	3.90	4.74	0.77	9.41
25101		EXPLORE/TREAT WRIST JOINT	4.71	4.92	0.80	10.43
25105		REMOVE WRIST JOINT LINING	5.90	7.17	1.20	14.27
25107	*	REMOVE WRIST JOINT CARTILAGE	6.26	5.86	1.01	13.13
25110		REMOVE WRIST TENDON LESION	4.02	2.63	0.47	7.32
25111		REMOVE WRIST TENDON LESION	3.44	3.36	0.56	7.36
25112		REREMOVE WRIST TENDON LESION	4.65	3.80	0.67	9.12
25115		REMOVE WRIST/FOREARM LESION	6.64	6.92	1.17	14.73
25116		REMOVE WRIST/FOREARM LESION	6.50	6.16	1.39	16.05
25118		EXCISE WRIST TENDON SHEATH	4.37	5.94	0.99	11.30
25119		PARTIAL REMOVAL OF ULNA	6.00	6.05	1.33	15.38
25120	*	REMOVAL OF FOREARM LESION	6.06	6.67	1.15	13.88
25125	*	REMOVE/GRAFT FOREARM LESION	7.50	9.78	1.50	18.78
25126	*	REMOVE/GRAFT FOREARM LESION	7.57	9.43	1.54	18.54
25130	*	REMOVAL OF WRIST LESION	5.40	4.14	0.66	10.20
25135	*	REMOVE & GRAFT WRIST LESION	6.99	6.28	1.11	14.38
25136	*	REMOVE & GRAFT WRIST LESION	6.03	4.76	0.85	11.64
25145	*	REMOVE FOREARM BONE LESION	6.36	4.26	0.52	11.14
25150	*	PARTIAL REMOVAL OF ULNA	6.97	4.77	0.78	12.52
25151	*	PARTIAL REMOVAL OF RADIUS	7.29	6.21	1.10	14.60
25170	*	EXTENSIVE FOREARM SURGERY	11.10	13.09	2.00	26.19
25210		REMOVAL OF WRIST BONE	5.89	4.83	0.79	11.51
25215	*	REMOVAL OF WRIST BONES	7.88	9.20	1.50	18.56
25230	*	PARTIAL REMOVAL OF RADIUS	5.15	5.10	0.76	11.01
25240		PARTIAL REMOVAL OF ULNA	5.21	5.34	0.87	11.42
25246	*	INJECTION FOR WRIST X-RAY	1.90	0.50	0.05	2.45
25260		REPAIR FOREARM TENDON/MUSCLE	7.78	4.44	0.75	12.97
25263	*	REPAIR FOREARM TENDON/MUSCLE	7.83	3.32	0.60	11.75
25265	*	REPAIR FOREARM TENDON/MUSCLE	10.14	5.94	1.06	17.14

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
25270		REPAIR FOREARM TENDON/MUSCLE	6.07	3.23	0.54	9.84
25272	*	REPAIR FOREARM TENDON/MUSCLE	7.18	3.10	0.51	10.79
25274	*	REPAIR FOREARM TENDON/MUSCLE	8.97	6.72	1.14	16.83
25280		REVISE WRIST/FOREARM TENDON	7.24	4.20	0.68	12.12
25290		INCISE WRIST/FOREARM TENDON	5.35	2.51	0.42	8.28
25295		RELEASE WRIST/FOREARM TENDON	6.64	2.78	0.49	9.91
25300	*	FUSION OF TENDONS AT WRIST	8.98	5.43	0.84	15.25
25301	*	FUSION OF TENDONS AT WRIST	8.60	5.22	0.86	14.68
25310		TRANSPLANT FOREARM TENDON	8.17	7.19	1.18	16.54
25312	*	TRANSPLANT FOREARM TENDON	9.65	8.43	1.42	19.50
25315	*	REVISE PALSY HAND TENDON(S)	9.97	11.38	1.81	23.16
25316	*	REVISE PALSY HAND TENDON(S)	12.06	9.33	1.57	22.96
25317	*	REVISE HAND CONTRACTURE	10.50	8.01	1.20	19.71
25320		REPAIR/REVISE WRIST JOINT	9.71	8.37	1.42	19.50
25330	*	REVISE WRIST JOINT	11.52	8.55	1.29	21.36
25331		REVISE WRIST JOINT	13.38	14.27	2.33	29.98
25332	*	REVISE WRIST JOINT	11.50	10.87	1.78	24.15
25335	*	REALIGNMENT OF HAND	12.85	1.46	0.35	14.66
25350	*	REVISION OF RADIUS	8.74	7.50	1.25	17.49
25355	*	REVISION OF RADIUS	10.16	12.63	2.07	24.86
25360	*	REVISION OF ULNA	8.37	6.10	0.91	15.38
25365	*	REVISE RADIUS & ULNA	12.35	9.21	1.41	22.97
25370	*	REVISE RADIUS OR ULNA	11.90	4.62	0.76	17.28
25375	*	REVISE RADIUS & ULNA	13.03	0.76	0.05	13.84
25390	*	SHORTEN RADIUS/ULNA	10.46	11.40	1.94	23.80
25391	*	LENGTHEN RADIUS/ULNA	13.54	11.86	2.06	27.46
25392	*	SHORTEN RADIUS & ULNA	13.86	12.47	2.04	28.37
25393	*	LENGTHEN RADIUS & ULNA	15.63	8.92	1.46	26.21
25400	*	REPAIR RADIUS OR ULNA	10.94	10.14	1.61	22.69
25405	*	REPAIR/GRAFT RADIUS OR ULNA	14.33	12.59	2.05	28.97
25415	*	REPAIR RADIUS & ULNA	13.43	8.36	1.64	23.45
25420	*	REPAIR/GRAFT RADIUS & ULNA	16.30	16.64	2.60	35.54
25425	*	REPAIR/GRAFT RADIUS OR ULNA	13.23	10.26	1.59	25.10
25426	*	REPAIR/GRAFT RADIUS & ULNA	15.86	15.81	2.87	34.54
25440	*	REPAIR/GRAFT WRIST BONE	10.56	11.03	1.83	23.42
25441	*	RECONSTRUCT WRIST JOINT	13.02	12.57	2.10	27.69
25442	*	RECONSTRUCT WRIST JOINT	10.98	6.10	1.07	18.15
25443	*	RECONSTRUCT WRIST JOINT	10.50	9.15	1.48	21.13
25444	*	RECONSTRUCT WRIST JOINT	11.30	10.05	1.64	22.99
25445	*	RECONSTRUCT WRIST JOINT	9.84	10.65	1.77	22.26
25446		WRIST REPLACEMENT	16.49	21.17	3.53	41.19
25447		REPAIR WRIST JOINT(S)	12.07	9.46	1.51	23.04
25449	*	REMOVE WRIST JOINT IMPLANT	14.63	7.30	1.08	23.01
25450	*	REVISION OF WRIST JOINT	8.14	5.63	0.92	14.69
25455	*	REVISION OF WRIST JOINT	9.71	7.43	1.22	18.36
25490	*	REINFORCE RADIUS	9.66	5.44	0.89	16.01
25491	*	REINFORCE ULNA	10.14	6.10	1.00	17.24
25492	*	REINFORCE RADIUS AND ULNA	12.48	11.77	1.93	26.18
25500		TREAT FRACTURE OF RADIUS	2.88	2.32	0.26	5.46
25505		TREAT FRACTURE OF RADIUS	5.29	3.69	0.54	9.52
25510	*	REPAIR FRACTURE OF RADIUS	6.38	4.38	0.65	11.41
25515	*	REPAIR FRACTURE OF RADIUS	9.17	7.88	1.27	18.32
25530		TREAT FRACTURE OF ULNA	2.73	2.39	0.33	5.45
25535		TREAT FRACTURE OF ULNA	5.21	3.57	0.54	9.32
25540	*	REPAIR FRACTURE OF ULNA	6.07	4.07	0.61	10.75
25545	*	REPAIR FRACTURE OF ULNA	8.86	7.62	1.21	17.69
25560		TREAT FRACTURE RADIUS & ULNA	3.15	2.26	0.26	5.69

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
25565		TREAT FRACTURE RADIUS & ULNA	5.63	4.80	0.73	11.16
25570	*	REPAIR FRACTURE RADIUS/ULNA	7.54	5.37	0.79	13.70
25575		REPAIR FRACTURE RADIUS/ULNA	11.50	11.08	1.79	24.37
25600		TREAT FRACTURE RADIUS/ULNA	3.06	2.78	0.37	6.21
25605		TREAT FRACTURE RADIUS/ULNA	5.78	4.04	0.63	10.43
25610		REPAIR FRACTURE RADIUS/ULNA	5.53	5.18	0.83	11.54
25611		REPAIR FRACTURE RADIUS/ULNA	7.03	6.39	1.03	14.45
25615		REPAIR FRACTURE RADIUS/ULNA	6.76	4.94	0.76	12.46
25620		REPAIR FRACTURE RADIUS/ULNA	9.35	7.37	1.18	17.90
25622		TREAT WRIST BONE FRACTURE	3.09	2.19	0.30	5.58
25624		TREAT WRIST BONE FRACTURE	4.56	3.51	0.55	8.62
25626	*	REPAIR WRIST BONE FRACTURE	6.15	4.94	0.81	11.90
25628	*	REPAIR WRIST BONE FRACTURE	8.29	5.73	0.93	14.95
25630		TREAT WRIST BONE FRACTURE	2.97	2.14	0.28	5.39
25635		TREAT WRIST BONE FRACTURE	4.43	3.27	0.50	8.20
25640	*	REPAIR WRIST BONE FRACTURE	5.86	4.14	0.62	10.62
25645	*	REPAIR WRIST BONE FRACTURE	7.28	4.82	0.67	12.77
25650		REPAIR WRIST BONE FRACTURE	3.05	2.41	0.31	5.77
25660	*	TREAT WRIST DISLOCATION	4.80	1.61	0.22	6.63
25665	*	REPAIR WRIST DISLOCATION	6.10	3.43	0.40	9.93
25670	*	REPAIR WRIST DISLOCATION	7.98	6.74	1.37	16.09
25675	*	TREAT WRIST DISLOCATION	4.72	2.18	0.31	7.21
25676	*	REPAIR WRIST DISLOCATION	8.01	5.78	0.87	14.66
25680	*	TREAT WRIST FRACTURE	5.99	4.89	0.74	11.62
25685	*	REPAIR WRIST FRACTURE	9.80	9.20	1.50	20.50
25690	*	TREAT WRIST DISLOCATION	5.49	3.70	0.54	9.73
25695	*	REPAIR WRIST DISLOCATION	8.44	6.07	1.33	17.84
25800		FUSION OF WRIST JOINT	9.78	11.29	1.66	22.93
25805	*	FUSION/GRAFT OF WRIST JOINT	11.23	13.72	2.22	27.17
25810		FUSION/GRAFT OF WRIST JOINT	10.40	13.32	2.16	25.88
25820	*	FUSION OF HAND BONES	7.59	8.98	1.51	18.08
25825		FUSION HAND BONES WITH GRAFT	9.16	12.51	2.07	23.74
25900		AMPUTATION OF FOREARM	8.66	7.37	1.36	17.39
26010		DRAINAGE OF FINGER ABSCESS	0.84	0.47	0.05	1.36
26011		DRAINAGE OF FINGER ABSCESS	1.26	1.44	0.22	2.92
26020		DRAIN HAND TENDON SHEATH	4.26	3.26	0.54	8.06
26025		DRAINAGE OF PALM BURSA	4.60	3.90	0.63	9.13
26030		DRAINAGE OF PALM BURSA(S)	5.69	5.01	0.82	11.52
26034		TREAT HAND BONE LESION	5.57	3.98	0.66	10.21
26035	*	DECOMPRESS FINGERS/HAND	6.65	4.67	0.76	12.08
26037	*	DECOMPRESS FINGERS/HAND	7.10	14.53	2.38	24.01
26040		RELEASE PALM CONTRACTURE	3.27	2.75	0.46	6.50
26045		RELEASE PALM CONTRACTURE	5.60	4.22	0.73	10.55
26055		INCISE FINGER TENDON SHEATH	2.71	3.59	0.59	6.89
26060		INCISION OF FINGER TENDON	2.68	0.85	0.12	3.65
26070		EXPLORE/TREAT HAND JOINT	3.55	2.22	0.30	6.07
26075		EXPLORE/TREAT FINGER JOINT	3.66	3.31	0.51	7.48
26080		EXPLORE/TREAT FINGER JOINT	3.34	3.11	0.50	6.95
26160		REMOVE TENDON SHEATH LESION	3.19	2.42	0.42	6.03
26255	*	EXTENSIVE HAND SURGERY	12.39	7.61	1.38	21.68
26320		REMOVAL OF IMPLANT FROM HAND	3.97	2.35	0.36	6.68
26418		REPAIR FINGER TENDON	4.37	3.57	0.60	8.54
26550	*	CONSTRUCT THUMB REPLACEMENT	14.34	1.23	0.14	15.71
26582	*	REPAIR OF WEB FINGER	9.80	1.47	0.11	11.38
26600		TREAT METACARPAL FRACTURE	2.19	1.51	0.18	3.88
26605		TREAT METACARPAL FRACTURE	2.55	2.25	0.33	5.13
26860		FUSION OF FINGER JOINT	4.76	4.44	0.71	9.91

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
26910		AMPUTATE METACARPAL BONE	7.63	5.27	0.95	13.85
26951		AMPUTATION OF FINGER/THUMB	4.69	2.85	0.49	8.03
26990		DRAINAGE OF PELVIS LESION	7.19	2.91	0.49	10.59
27025	*	INCISION OF HIP FASCIA	10.80	7.56	1.12	19.48
27040		BIOPSY OF SOFT TISSUES	3.39	0.70	0.10	4.19
27077	*	EXTENSIVE HIP SURGERY	22.61	16.45	2.81	41.87
27091		REMOVAL OF HIP PROSTHESIS	21.75	20.04	3.19	44.98
27093		INJECTION FOR HIP X-RAY	1.63	0.80	0.10	2.53
27095		INJECTION FOR HIP X-RAY	1.84	0.90	0.12	2.86
27097	*	REVISION OF HIP TENDON	8.59	5.85	0.98	15.40
27098	*	TRANSFER TENDON TO PELVIS	8.59	8.97	1.47	19.03
27100	*	TRANSFER OF ABDOMINAL MUSCLE	11.23	3.42	0.40	15.05
27105	*	TRANSFER OF SPINAL MUSCLE	11.96	2.76	0.29	15.01
27110	*	TRANSFER OF ILIOPSOAS MUSCLE	13.28	7.86	1.35	22.49
27111	*	TRANSFER OF ILIOPSOAS MUSCLE	12.16	5.63	0.74	18.53
27120	*	RECONSTRUCTION OF HIP SOCKET	17.45	13.07	2.14	32.66
27122		RECONSTRUCTION OF HIP SOCKET	14.40	18.34	2.97	35.71
27125		REVISE HIP WITH PROSTHESIS	14.04	19.66	3.17	36.87
27130		TOTAL HIP JOINT REPLACEMENT	19.85	30.55	4.88	55.28
27132		TOTAL HIP JOINT REPLACEMENT	22.78	33.70	5.43	61.91
27134		REVISE HIP JOINT REPLACEMENT	26.06	39.67	6.35	72.08
27137		REVISE HIP JOINT COMPONENT	19.84	31.93	5.14	56.91
27138		REVISE HIP JOINT COMPONENT	20.11	30.89	4.92	55.92
27140	*	TRANSPLANT OF FEMUR RIDGE	12.14	9.79	1.50	23.43
27146	*	INCISION OF HIP BONE	14.56	9.27	1.17	25.00
27147	*	REVISION OF HIP BONE	18.68	12.54	1.90	33.12
27151	*	INCISION OF HIP BONES	19.74	21.72	3.56	45.02
27156	*	REVISION OF HIP BONES	21.41	24.01	4.03	49.45
27158	*	REVISION OF PELVIS	19.23	12.04	1.82	33.09
27161	*	INCISION OF NECK OF FEMUR	16.15	13.36	2.24	31.75
27165		INCISION/FIXATION OF FEMUR	17.22	16.90	2.65	36.77
27170		REPAIR/GRAFT FEMUR HEAD/NECK	15.83	16.84	2.72	35.39
27175		TREAT SLIPPED EPIPHYSIS	7.36	1.22	0.19	8.77
27176	*	TREAT SLIPPED EPIPHYSIS	11.58	13.96	2.21	27.75
27177	*	REPAIR SLIPPED EPIPHYSIS	14.61	16.25	3.02	33.88
27178	*	REPAIR SLIPPED EPIPHYSIS	11.43	18.89	2.80	33.12
27179	*	REVISE HEAD/NECK OF FEMUR	12.42	13.22	2.17	27.81
27181	*	REPAIR SLIPPED EPIPHYSIS	14.65	7.42	1.65	23.72
27187		REINFORCE HIP BONES	13.35	17.82	2.83	34.00
27190		TREATMENT OF SACRUM FRACTURE	3.97	2.31	0.32	6.60
27192	*	REPAIR OF SACRUM FRACTURE	12.73	5.95	0.91	19.59
27195	*	TREAT PELVIS DISLOCATION	6.07	2.48	0.40	8.95
27196	*	TREAT PELVIS DISLOCATION	9.29	1.61	0.20	11.10
27200		TREAT TAIL BONE FRACTURE	2.71	1.37	0.15	4.23
27201	*	REPAIR TAIL BONE FRACTURE	5.83	2.83	0.46	9.12
27202	*	REPAIR TAIL BONE FRACTURE	6.92	3.71	0.49	11.12
27210		TREAT PELVIS FRACTURE	5.26	4.01	0.61	9.88
27212	*	REPAIR PELVIS FRACTURE(S)	9.22	5.07	0.61	15.10
27214		REPAIR PELVIS FRACTURE(S)	13.54	14.21	2.27	30.02
27220		TREAT HIP SOCKET FRACTURE	6.18	3.85	0.57	10.60
27222		TREAT HIP SOCKET FRACTURE	11.63	5.26	0.84	17.73
27224		REPAIR HIP SOCKET FRACTURE	15.60	11.38	1.97	28.95
27225		REPAIR HIP SOCKET FRACTURE	20.28	13.50	2.47	36.25
27230		TREAT FRACTURE OF FEMUR	5.67	3.08	0.37	9.12
27232		TREAT FRACTURE OF FEMUR	9.89	7.86	1.29	19.04
27234		REPAIR FRACTURE OF FEMUR	12.58	12.03	1.96	26.59
27235		REPAIR OF FEMUR FRACTURE	11.92	17.04	2.72	31.68

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
27236		REPAIR OF FEMUR FRACTURE	15.02	17.57	2.82	35.41
27238		TREATMENT OF FEMUR FRACTURE	7.25	3.99	0.53	11.77
27240		TREATMENT OF FEMUR FRACTURE	11.53	8.08	1.29	20.90
27244		REPAIR OF FEMUR FRACTURE	15.36	16.82	2.70	34.88
27252		TREAT HIP DISLOCATION	10.29	4.48	0.71	15.48
27280	*	FUSION OF SACROILIAC JOINT	12.55	5.20	0.92	18.67
27282	*	FUSION OF PUBIC BONES	11.23	12.03	2.26	25.52
27284	*	FUSION OF HIP JOINT	16.59	13.12	2.00	31.71
27286	*	FUSION OF HIP JOINT	16.63	15.80	2.22	34.65
27290	*	AMPUTATION OF LEG AT HIP	23.03	25.42	4.36	52.81
27295		AMPUTATION OF LEG AT HIP	18.39	16.81	3.00	38.20
27301		DRAIN THIGH/KNEE LESION	6.35	2.18	0.34	8.87
27303		DRAINAGE OF BONE LESION	8.17	5.74	0.94	14.85
27305		INCISE THIGH TENDON & FASCIA	5.76	3.36	0.63	9.75
27306	*	INCISION OF THIGH TENDON	4.55	2.07	0.33	6.95
27307	*	INCISION OF THIGH TENDONS	5.64	2.66	0.39	8.69
27310		EXPLORATION OF KNEE JOINT	8.77	10.05	1.57	20.39
27315	*	PARTIAL REMOVAL, THIGH NERVE	6.91	6.93	1.23	15.07
27320	*	PARTIAL REMOVAL, THIGH NERVE	6.27	7.02	0.99	14.28
27323		BIOPSY THIGH SOFT TISSUES	2.85	0.93	0.13	3.91
27324		BIOPSY THIGH SOFT TISSUES	4.80	2.23	0.39	7.47
27327		REMOVAL OF THIGH LESION	4.60	2.18	0.37	7.15
27328		REMOVAL OF THIGH LESION	5.65	4.05	0.72	10.42
27329		REMOVE TUMOR, THIGH/KNEE	12.47	10.68	1.95	25.10
27330		BIOPSY KNEE JOINT LINING	5.00	5.38	0.75	11.13
27331		EXPLORE/TREAT KNEE JOINT	5.84	9.69	1.54	17.07
27332		REMOVAL OF KNEE CARTILAGE	8.34	11.23	1.76	21.33
27333		REMOVAL OF KNEE CARTILAGE	7.23	11.01	1.77	20.01
27334		REMOVE KNEE JOINT LINING	8.45	11.43	1.80	21.68
27335		REMOVE KNEE JOINT LINING	9.78	13.22	2.13	25.11
27340		REMOVAL OF KNEECAP BURSA	4.15	4.05	0.68	8.88
27345		REMOVAL OF KNEE CYST	5.99	5.75	0.96	12.70
27350		REMOVAL OF KNEECAP	7.89	9.78	1.57	19.24
27355		REMOVE FEMUR LESION	7.50	7.45	1.20	16.15
27356	*	REMOVE FEMUR LESION/GRAFT	6.14	8.77	1.43	19.34
27357	*	REMOVE FEMUR LESION/GRAFT	10.23	9.72	1.58	21.53
27358	*	REMOVE FEMUR LESION/FIXATION	10.94	11.58	1.83	24.33
27360		PARTIAL REMOVAL LEG BONE(S)	9.29	8.87	1.45	19.61
27365		EXTENSIVE LEG SURGERY	14.70	10.83	1.85	27.38
27370		INJECTION FOR KNEE X-RAY	1.70	0.55	0.05	2.30
27380		REPAIR OF KNEECAP TENDON	7.04	8.38	1.36	16.75
27381		REPAIR/GRAFT KNEECAP TENDON	10.26	11.52	1.85	23.63
27385		REPAIR OF THIGH MUSCLE	7.62	9.02	1.44	18.08
27386		REPAIR/GRAFT OF THIGH MUSCLE	10.32	12.95	2.08	25.35
27390	*	INCISION OF THIGH TENDON	5.19	4.57	0.75	10.51
27391	*	INCISION OF THIGH TENDONS	7.08	5.65	0.94	13.67
27392	*	INCISION OF THIGH TENDONS	9.04	6.06	1.36	16.46
27393	*	LENGTHENING OF THIGH TENDON	6.32	5.79	0.95	13.06
27394	*	LENGTHENING OF THIGH TENDONS	8.46	5.63	0.92	15.01
27395	*	LENGTHENING OF THIGH TENDONS	11.64	10.70	1.68	24.02
27396	*	TRANSPLANT OF THIGH TENDON	7.78	8.80	1.37	17.95
27397	*	TRANSPLANTS OF THIGH TENDONS	9.90	12.63	2.07	24.60
27400	*	REVISE THIGH MUSCLES/TENDONS	8.99	10.38	1.83	21.00
27403	*	REPAIR OF KNEE CARTILAGE	8.26	8.51	1.39	18.16
27405	*	REPAIR OF KNEE LIGAMENT	8.46	10.46	1.72	20.64
27407	*	REPAIR OF KNEE LIGAMENT	10.03	7.26	1.34	18.63
27409	*	REPAIR OF KNEE LIGAMENTS	12.54	15.65	2.55	30.74

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPGS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
27418	*	REPAIR DEGENERATED KNEECAP	10.43	10.25	1.63	22.31
27420		REVISION OF UNSTABLE KNEECAP	9.71	11.62	1.83	23.16
27422		REVISION OF UNSTABLE KNEECAP	9.67	11.85	1.89	23.41
27424	*	REVISION/REMOVAL OF KNEECAP	9.70	12.26	1.92	23.88
27425		LATERAL RETINACULAR RELEASE	5.31	5.88	0.92	12.11
27427		RECONSTRUCTION, KNEE	9.22	14.14	2.25	25.61
27428	*	RECONSTRUCTION, KNEE	11.34	14.98	2.57	28.87
27429	*	RECONSTRUCTION, KNEE	12.60	19.86	3.21	35.67
27430		REVISION OF THIGH MUSCLES	9.48	9.24	1.48	20.20
27435		INCISION OF KNEE JOINT	9.30	6.66	1.06	17.02
27437		REVISE KNEECAP	8.23	9.30	1.40	18.93
27438		REVISE KNEECAP WITH IMPLANT	10.92	12.15	1.90	24.97
27440		REVISION OF KNEE JOINT	10.09	10.19	1.89	22.17
27441	*	REVISION OF KNEE JOINT	10.42	17.53	2.90	30.85
27442		REVISION OF KNEE JOINT	11.83	19.22	3.11	34.16
27443		REVISION OF KNEE JOINT	11.52	19.11	3.11	33.74
27445		REVISE KNEE JOINT, IMPLANT	17.41	19.02	3.02	39.45
27446		REVISION OF KNEE JOINT	15.97	25.79	4.06	45.82
27447		TOTAL KNEE REPLACEMENT	20.03	32.77	5.24	58.04
27448	*	INCISION OF FEMUR	10.89	13.30	2.13	26.32
27450		INCISION OF FEMUR	13.89	14.76	2.35	31.00
27454	*	REALIGNMENT OF FEMUR	13.02	11.87	2.15	26.84
27455		REALIGNMENT OF KNEE	12.76	11.98	1.95	26.69
27457		REALIGNMENT OF KNEE	13.38	12.43	1.99	27.80
27465	*	SHORTENING OF FEMUR	13.64	14.04	2.30	29.98
27466	*	LENGTHENING OF FEMUR	16.02	21.36	3.62	41.00
27468	*	REVISION OF FEMURS	16.76	23.69	3.88	46.33
27470		REPAIR OF FEMUR	15.74	12.52	2.11	30.37
27472		REPAIR/GRAFT OF FEMUR	17.42	20.43	3.25	41.10
27475	*	REPAIR OF FEMUR EPIPHYSIS	8.63	8.01	1.20	17.84
27477		REPAIR LOWER LEG EPIPHYSES	9.89	15.67	2.45	28.01
27479	*	REPAIR OF LEG EPIPHYSES	12.95	13.30	2.18	28.43
27485	*	REPAIR OF LEG EPIPHYSIS	8.82	5.44	0.72	14.98
27486		REVISE TOTAL KNEE REPAIR	17.67	28.65	4.56	50.88
27487		REVISE TOTAL KNEE REPAIR	23.05	39.31	6.31	68.67
27488		REMOVAL OF KNEE PROSTHESIS	15.37	15.93	2.54	33.84
27495		REINFORCE FEMUR	15.15	17.88	2.84	35.85
27500		TREATMENT OF FEMUR FRACTURE	7.21	4.97	0.72	12.90
27502		TREATMENT OF FEMUR FRACTURE	9.45	7.94	1.26	18.65
27504	*	REPAIR OF FEMUR FRACTURE	12.35	10.00	1.84	23.99
27506		REPAIR OF FEMUR FRACTURE	16.43	16.76	2.68	35.87
27508		TREATMENT OF FEMUR FRACTURE	6.32	4.26	0.65	11.23
27510		TREATMENT OF FEMUR FRACTURE	6.70	6.60	1.04	16.34
27512	*	REPAIR OF FEMUR FRACTURE	13.12	8.49	1.39	23.00
27514		REPAIR OF FEMUR FRACTURE	16.98	15.98	2.56	35.52
27516	*	TREATMENT OF FEMUR EPIPHYSIS	7.02	4.92	0.74	12.68
27517	*	TREATMENT OF FEMUR EPIPHYSIS	6.71	6.88	1.13	16.72
27518	*	REPAIR OF FEMUR EPIPHYSIS	12.26	6.53	1.07	19.86
27519	*	REPAIR OF FEMUR EPIPHYSIS	14.66	9.65	1.73	26.26
27520		TREAT KNEECAP FRACTURE	4.17	2.85	0.40	7.42
27522	*	REPAIR OF KNEECAP FRACTURE	7.64	3.28	0.54	11.46
27524		REPAIR OF KNEECAP FRACTURE	9.95	10.67	1.70	22.32
27530		TREATMENT OF KNEE FRACTURE	5.22	3.46	0.53	9.21
27532		TREATMENT OF KNEE FRACTURE	7.23	5.39	0.86	13.48
27534	*	REPAIR OF KNEE FRACTURE	11.70	5.09	0.75	17.54
27536		REPAIR OF KNEE FRACTURE	13.47	12.29	1.97	27.73
27537		REPAIR/GRAFT KNEE FRACTURE	17.30	17.86	2.87	38.03

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
27538	*	TREAT KNEE FRACTURE(S)	4.93	3.18	0.48	8.59
27540	*	REPAIR OF KNEE FRACTURE	13.15	11.22	1.77	26.14
27550		TREAT KNEE DISLOCATION	5.86	2.23	0.29	8.38
27552		TREAT KNEE DISLOCATION	7.85	3.49	0.55	11.89
27554	*	REPAIR OF KNEE DISLOCATION	10.51	11.96	1.96	24.43
27556	*	REPAIR OF KNEE DISLOCATION	14.25	12.87	2.02	29.14
27557	*	REPAIR OF KNEE DISLOCATION	18.79	15.25	2.54	34.58
27560		TREAT KNEECAP DISLOCATION	4.12	1.24	0.13	5.49
27562	*	TREAT KNEECAP DISLOCATION	5.82	2.54	0.37	8.73
27564	*	REPAIR KNEECAP DISLOCATION	9.43	1.16	0.14	10.73
27566		REPAIR KNEECAP DISLOCATION	12.20	10.86	1.71	24.77
27590		AMPUTATE LEG AT THIGH	11.45	9.54	1.88	22.87
27591		AMPUTATE LEG AT THIGH	11.78	12.33	2.20	26.31
27592		AMPUTATE LEG AT THIGH	9.31	8.34	1.67	19.32
27594		AMPUTATION FOLLOW-UP SURGERY	8.06	3.57	0.68	12.31
27596		AMPUTATION FOLLOW-UP SURGERY	10.23	7.77	1.50	19.50
27598		AMPUTATE LOWER LEG AT KNEE	10.17	10.44	1.84	22.45
27600		DECOMPRESSION OF LOWER LEG	5.34	3.48	0.65	9.47
27601	*	DECOMPRESSION OF LOWER LEG	5.31	3.53	0.70	9.54
27602		DECOMPRESSION OF LOWER LEG	7.04	4.09	0.77	11.90
27603		DRAIN LOWER LEG LESION	4.69	1.91	0.30	6.90
27610		EXPLORE/TREAT ANKLE JOINT	6.33	7.15	1.09	14.57
27613		BIOPSY LOWER LEG SOFT TISSUE	2.25	0.70	0.09	3.04
27614		BIOPSY LOWER LEG SOFT TISSUE	5.63	2.09	0.33	8.05
27615		REMOVE TUMOR, LOWER LEG	12.53	7.62	1.29	21.44
27618		REMOVE LOWER LEG LESION	5.24	1.97	0.29	7.50
27619		REMOVE LOWER LEG LESION	8.47	3.82	0.63	12.92
27620		EXPLORE, TREAT ANKLE JOINT	6.04	3.07	0.35	9.46
27625		REMOVE ANKLE JOINT LINING	8.38	8.77	1.29	18.44
27626	*	REMOVE ANKLE JOINT LINING	9.01	12.15	1.31	22.47
27630		REMOVAL OF TENDON LESION	4.94	3.01	0.44	8.39
27635		REMOVE LOWER LEG BONE LESION	7.75	8.36	1.32	17.45
27637	*	REMOVE/GRAFT LEG BONE LESION	9.70	10.07	1.89	21.66
27638	*	REMOVE/GRAFT LEG BONE LESION	10.51	9.71	1.62	21.84
27640		PARTIAL REMOVAL OF TIBIA	10.29	9.83	1.57	21.69
27641		PARTIAL REMOVAL OF FIBULA	8.87	7.24	1.19	17.30
27645	*	EXTENSIVE LOWER LEG SURGERY	13.96	11.79	2.02	27.77
27646	*	EXTENSIVE LOWER LEG SURGERY	12.42	15.43	2.45	30.30
27647	*	EXTENSIVE ANKLE/HEEL SURGERY	11.91	6.95	0.88	19.74
27648	*	INJECTION FOR ANKLE X-RAY	1.32	0.59	0.07	1.98
27650		REPAIR ACHILLES TENDON	7.67	9.25	1.46	18.38
27676	*	REPAIR LOWER LEG TENDONS	8.36	8.46	1.27	18.09
27750		TREATMENT OF TIBIA FRACTURE	4.21	3.31	0.48	8.00
27752		TREATMENT OF TIBIA FRACTURE	5.49	5.21	0.83	11.53
27754		REPAIR OF TIBIA FRACTURE	7.04	5.85	0.90	13.79
27756		REPAIR OF TIBIA FRACTURE	10.82	11.01	1.77	23.60
27758		REPAIR OF TIBIA FRACTURE	12.97	14.04	2.26	29.27
27760		TREATMENT OF ANKLE FRACTURE	3.52	2.42	0.33	6.27
27762		TREATMENT OF ANKLE FRACTURE	5.09	3.50	0.54	9.13
27764	*	REPAIR OF ANKLE FRACTURE	6.24	3.96	0.58	10.78
27766		REPAIR OF ANKLE FRACTURE	8.08	6.18	1.32	17.58
27780		TREATMENT OF FIBULA FRACTURE	3.30	1.95	0.23	5.48
27781		TREATMENT OF FIBULA FRACTURE	4.46	3.05	0.45	7.96
27782	*	REPAIR OF FIBULA FRACTURE	4.87	3.70	0.48	9.05
27784		REPAIR OF FIBULA FRACTURE	6.66	5.03	0.76	12.65
27786		TREATMENT OF ANKLE FRACTURE	3.62	2.45	0.33	6.40
27788		TREATMENT OF ANKLE FRACTURE	4.51	3.21	0.50	8.22

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
27790	*	REPAIR OF ANKLE FRACTURE	5.29	3.64	0.50	9.43
27792		REPAIR OF ANKLE FRACTURE	7.48	7.78	1.23	16.49
27800		TREAT LOWER LEG FRACTURES	4.28	3.46	0.47	8.21
27802		TREAT LOWER LEG FRACTURES	5.78	8.59	1.05	13.42
27804		REPAIR LOWER LEG FRACTURES	8.56	8.16	1.31	18.03
27806		REPAIR LOWER LEG FRACTURES	10.38	12.49	2.01	24.88
27808		TREATMENT OF ANKLE FRACTURE	3.67	2.75	0.38	6.80
27810		TREATMENT OF ANKLE FRACTURE	5.11	5.11	0.81	11.03
27812	*	REPAIR OF ANKLE FRACTURE	6.26	5.92	0.97	13.15
27814		REPAIR OF ANKLE FRACTURE	10.49	10.49	1.69	22.67
27816		TREATMENT OF ANKLE FRACTURE	3.78	3.70	0.53	8.01
27818		TREATMENT OF ANKLE FRACTURE	5.40	6.19	0.98	12.57
27820	*	REPAIR OF ANKLE FRACTURE	7.48	6.71	1.09	15.28
27822		REPAIR OF ANKLE FRACTURE	8.91	12.29	1.98	23.18
27860	*	FIXATION OF ANKLE JOINT	1.63	1.37	0.22	3.22
27870		FUSION OF ANKLE JOINT	11.07	14.53	2.30	27.90
27871	*	FUSION OF TIBIOFIBULAR JOINT	9.08	12.35	1.85	23.28
27880		AMPUTATION OF LOWER LEG	11.35	8.71	1.67	21.73
27881		AMPUTATION OF LOWER LEG	11.58	11.25	1.94	24.77
27882		AMPUTATION OF LOWER LEG	8.28	7.47	1.43	17.18
27884		AMPUTATION FOLLOW-UP SURGERY	7.88	3.01	0.57	11.44
27886		AMPUTATION FOLLOW-UP SURGERY	8.86	7.41	1.38	17.65
27888		AMPUTATION OF FOOT AT ANKLE	9.25	9.90	1.71	20.86
27889	*	AMPUTATION OF FOOT AT ANKLE	9.37	8.43	1.55	19.35
28001		DRAINAGE OF BURSA OF FOOT	2.00	0.53	0.05	2.58
28002		TREATMENT OF FOOT INFECTION	2.80	1.91	0.28	4.97
28003		TREATMENT OF FOOT INFECTION	7.95	2.91	0.44	11.30
28005		TREAT FOOT BONE LESION	8.15	4.08	0.61	12.82
28008		INCISION OF FOOT FASCIA	4.45	2.69	0.28	7.42
28010		INCISION OF TOE TENDON	3.18	3.34	0.29	6.79
28011		INCISION OF TOE TENDONS	4.24	1.72	0.19	6.15
28020		EXPLORATION OF A FOOT JOINT	5.04	4.04	0.52	9.60
28022		EXPLORATION OF A FOOT JOINT	4.89	2.84	0.29	7.62
28024		EXPLORATION OF A TOE JOINT	4.37	2.31	0.23	6.91
28030	*	REMOVAL OF FOOT NERVE	6.14	3.43	0.34	9.91
28035		DECOMPRESSION OF TIBIA NERVE	5.12	7.09	0.94	13.15
28043		EXCISION OF FOOT LESION	3.63	1.51	0.17	5.31
28045		EXCISION OF FOOT LESION	4.74	4.12	0.48	9.34
28046	*	RESECTION OF TUMOR, FOOT	10.00	5.18	0.74	15.92
28050	*	BIOPSY OF FOOT JOINT LINING	4.24	5.06	0.59	9.89
28052		BIOPSY OF FOOT JOINT LINING	3.93	3.53	0.38	7.84
28054	*	BIOPSY OF TOE JOINT LINING	3.40	2.03	0.24	5.67
28060		PARTIAL REMOVAL FOOT FASCIA	5.37	4.17	0.53	10.07
28062		REMOVAL OF FOOT FASCIA	6.61	7.29	0.89	14.79
28070	*	REMOVAL OF FOOT JOINT LINING	5.02	4.41	0.47	9.90
28072	*	REMOVAL OF FOOT JOINT LINING	4.60	3.04	0.39	8.03
28080		REMOVAL OF FOOT LESION	3.38	4.47	0.49	8.34
28088	*	EXCISE FOOT TENDON SHEATH	4.79	3.56	0.51	8.86
28088	*	EXCISE FOOT TENDON SHEATH	3.85	3.45	0.38	7.68
28090		REMOVAL OF FOOT LESION	4.54	3.09	0.35	7.98
28092		REMOVAL OF TOE LESIONS	3.71	1.99	0.23	5.93
28100		REMOVAL OF ANKLE/HEEL LESION	5.70	3.86	0.46	10.02
28102	*	REMOVE/GRAFT FOOT LESION	7.76	5.82	0.71	14.29
28103	*	REMOVE/GRAFT FOOT LESION	6.48	5.19	0.62	12.29
28104		REMOVAL OF FOOT LESION	5.15	4.50	0.51	10.16
28106	*	REMOVE/GRAFT FOOT LESION	7.17	5.31	0.65	13.13
28107	*	REMOVE/GRAFT FOOT LESION	5.49	5.10	0.51	11.10

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
28108		REMOVAL OF TOE LESIONS	4.26	4.39	0.40	9.05
28110		PART REMOVAL OF METATARSAL	4.05	3.51	0.39	7.95
28111		PART REMOVAL OF METATARSAL	4.93	5.09	0.66	10.68
28112		PART REMOVAL OF METATARSAL	4.50	3.97	0.45	8.92
28113		PART REMOVAL OF METATARSAL	4.34	4.27	0.47	9.08
28114		REMOVAL OF METATARSAL HEADS	7.61	10.54	1.48	19.63
28116	*	REVISION OF FOOT	6.55	5.51	0.58	12.64
28118		REMOVAL OF HEEL BONE	5.90	5.87	0.69	12.46
28119		REMOVAL OF HEEL SPUR	5.43	5.38	0.58	11.39
28120		PART REMOVAL OF ANKLE/HEEL	6.98	5.03	0.68	12.69
28122		PARTIAL REMOVAL OF FOOT BONE	6.56	4.63	0.57	11.76
28124		PARTIAL REMOVAL OF TOE	4.86	4.35	0.40	9.41
28126		PARTIAL REMOVAL OF TOE	3.61	3.94	0.38	7.93
28130	*	REMOVAL OF ANKLE BONE	7.79	7.14	0.86	15.80
28140		REMOVAL OF METATARSAL	6.86	5.03	0.63	12.52
28150		REMOVAL OF TOE	4.07	3.39	0.39	7.85
28153		PARTIAL REMOVAL OF TOE	3.82	4.01	0.34	7.97
28160		PARTIAL REMOVAL OF TOE	3.82	4.06	0.38	8.26
28171	*	EXTENSIVE FOOT SURGERY	9.53	5.60	0.63	15.76
28173	*	EXTENSIVE FOOT SURGERY	8.69	5.84	0.72	15.25
28175	*	EXTENSIVE FOOT SURGERY	5.93	4.31	0.47	10.71
28190		REMOVAL OF FOOT FOREIGN BODY	1.22	0.54	0.05	1.81
28192		REMOVAL OF FOOT FOREIGN BODY	4.77	1.77	0.22	6.76
28193		REMOVAL OF FOOT FOREIGN BODY	5.78	2.23	0.27	8.28
28285		REVISION OF HAMMERTOE	3.80	4.52	0.42	8.74
28292		CORRECTION OF BUNION	6.17	7.44	0.78	14.39
28470		TREAT METATARSAL FRACTURE	1.86	1.73	0.20	3.79
28705	*	FUSION OF FOOT BONES	11.36	11.37	1.66	24.41
28715		FUSION OF FOOT BONES	10.44	12.78	1.97	25.19
28725		FUSION OF FOOT BONES	9.21	10.07	1.54	20.82
28730		FUSION OF FOOT BONES	8.28	9.27	1.37	18.92
28735	*	FUSION OF FOOT BONES	10.89	10.10	1.47	22.26
28737	*	REVISION OF FOOT BONES	7.52	8.83	1.23	17.38
28740		FUSION OF FOOT BONES	6.58	5.03	0.71	12.32
28750		FUSION OF BIG TOE JOINT	5.06	5.43	0.83	11.32
28755		FUSION OF BIG TOE JOINT	4.78	3.67	0.45	8.88
28760		FUSION OF BIG TOE JOINT	5.81	5.02	0.60	11.43
28800		AMPUTATION OF MIDFOOT	7.83	6.85	1.22	15.90
28805		AMPUTATION THRU METATARSAL	8.01	6.55	1.26	15.82
28810		AMPUTATION TOE & METATARSAL	5.86	4.05	0.78	10.69
28820		AMPUTATION OF TOE	6.43	2.59	0.47	9.49
28825		PARTIAL AMPUTATION OF TOE	4.42	2.42	0.41	7.25
29000		APPLICATION OF BODY CAST	2.15	1.41	0.14	3.70
29010	*	APPLICATION OF BODY CAST	1.95	1.90	0.24	4.09
29015	*	APPLICATION OF BODY CAST	2.32	0.82	0.11	3.25
29020	*	APPLICATION OF BODY CAST	2.00	1.30	0.16	3.46
29025	*	APPLICATION OF BODY CAST	2.31	0.57	0.10	2.98
29035		APPLICATION OF BODY CAST	1.64	1.73	0.27	3.64
29040	*	APPLICATION OF BODY CAST	2.12	1.48	0.16	3.76
29044	*	APPLICATION OF BODY CAST	2.01	2.07	0.33	4.41
29046	*	APPLICATION OF BODY CAST	2.32	1.99	0.30	4.61
29049	*	APPLICATION OF SHOULDER CAST	0.72	0.36	0.05	1.13
29055		APPLICATION OF SHOULDER CAST	1.65	1.18	0.17	3.00
29058	*	APPLICATION OF SHOULDER CAST	1.18	0.68	0.09	1.91
29065		APPLICATION OF LONG ARM CAST	0.70	0.80	0.12	1.62
29075		APPLICATION OF FOREARM CAST	0.58	0.62	0.09	1.29
29085		APPLY HAND/WRIST CAST	0.70	0.51	0.07	1.28

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCCPS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
29105		APPLY LONG ARM SPLINT	0.70	0.54	0.07	1.31
29125		APPLY FOREARM SPLINT	0.40	0.37	0.04	0.81
29128		APPLY FOREARM SPLINT	0.58	0.40	0.06	1.04
29130		APPLICATION OF FINGER SPLINT	0.30	0.17	0.02	0.49
29131		APPLICATION OF FINGER SPLINT	0.37	0.28	0.04	0.67
29200		STRAPPING OF CHEST	0.46	0.26	0.02	0.74
29220		STRAPPING OF LOW BACK	0.45	0.37	0.05	0.87
29240		STRAPPING OF SHOULDER	0.52	0.25	0.03	0.80
29260		STRAPPING OF ELBOW OR WRIST	0.37	0.21	0.03	0.61
29280		STRAPPING OF HAND OR FINGER	0.32	0.18	0.02	0.52
29305		APPLICATION OF HIP CAST	1.93	1.88	0.30	4.11
29325		APPLICATION OF HIP CASTS	2.23	1.93	0.27	4.43
29345		APPLICATION OF LONG LEG CAST	1.25	1.03	0.18	2.44
29355		APPLICATION OF LONG LEG CAST	1.39	1.14	0.17	2.70
29358		APPLY LONG LEG CAST BRACE	1.28	1.98	0.31	3.57
29365		APPLICATION OF LONG LEG CAST	1.02	0.88	0.14	2.04
29405		APPLY SHORT LEG CAST	0.89	0.79	0.11	1.59
29425		APPLY SHORT LEG CAST	0.83	0.95	0.13	1.91
29435		APPLY SHORT LEG CAST	1.02	1.20	0.18	2.40
29440		ADDITION OF WALKER TO CAST	0.37	0.24	0.03	0.64
29450		APPLICATION OF LEG CAST	0.84	0.38	0.04	1.26
29505		APPLICATION LONG LEG SPLINT	0.50	0.60	0.07	1.17
29515		APPLICATION LOWER LEG SPLINT	0.55	0.49	0.05	1.09
29580		APPLICATION OF PASTE BOOT	0.37	0.31	0.04	0.72
29590		APPLICATION OF FOOT SPLINT	0.57	0.28	0.03	0.88
29705		REMOVAL/REVISION OF CAST	0.94	0.38	0.05	1.35
29815		SHOULDER ARTHROSCOPY	8.10	4.45	0.70	11.25
29819	*	SHOULDER ARTHROSCOPY/SURGERY	7.78	9.84	1.57	18.99
29820		SHOULDER ARTHROSCOPY/SURGERY	7.23	10.32	1.69	19.24
29821	*	SHOULDER ARTHROSCOPY/SURGERY	7.90	13.52	2.16	23.58
29822		SHOULDER ARTHROSCOPY/SURGERY	7.59	10.80	1.73	20.12
29823		SHOULDER ARTHROSCOPY/SURGERY	8.35	14.73	2.39	25.47
29825		SHOULDER ARTHROSCOPY/SURGERY	7.79	12.58	2.00	22.37
29826	*	SHOULDER ARTHROSCOPY/SURGERY	9.25	13.25	2.17	24.67
29830	*	ELBOW ARTHROSCOPY	5.98	3.08	0.43	9.49
29834	*	ELBOW ARTHROSCOPY/SURGERY	6.52	10.89	1.78	19.19
29835	*	ELBOW ARTHROSCOPY/SURGERY	6.72	9.87	1.58	17.97
29836	*	ELBOW ARTHROSCOPY/SURGERY	7.83	9.40	1.43	18.66
29837	*	ELBOW ARTHROSCOPY/SURGERY	7.14	11.81	1.93	20.88
29838	*	ELBOW ARTHROSCOPY/SURGERY	7.89	10.29	1.88	19.84
29840	*	WRIST ARTHROSCOPY	5.72	2.55	0.34	8.61
29843	*	WRIST ARTHROSCOPY/SURGERY	6.23	5.84	0.91	12.78
29844	*	WRIST ARTHROSCOPY/SURGERY	6.60	11.37	1.93	19.90
29845	*	WRIST ARTHROSCOPY/SURGERY	7.80	8.12	1.33	17.25
29846	*	WRIST ARTHROSCOPY/SURGERY	7.01	9.71	1.63	18.35
29847	*	WRIST ARTHROSCOPY/SURGERY	7.38	4.27	0.56	12.19
29870		KNEE ARTHROSCOPY	5.24	4.22	0.68	10.14
29871		KNEE ARTHROSCOPY/DRAINAGE	6.88	6.97	0.98	14.83
29874		KNEE ARTHROSCOPY/SURGERY	7.22	10.40	1.61	19.23
29875		KNEE ARTHROSCOPY/SURGERY	6.54	10.91	1.76	19.21
29876		KNEE ARTHROSCOPY/SURGERY	7.97	12.78	2.07	22.82
29877		KNEE ARTHROSCOPY/SURGERY	7.49	11.89	1.91	21.29
29879		KNEE ARTHROSCOPY/SURGERY	8.10	13.72	2.21	24.03
29880		KNEE ARTHROSCOPY/SURGERY	8.60	14.53	2.34	25.47
29881		KNEE ARTHROSCOPY/SURGERY	7.93	12.02	1.94	21.89
29882		KNEE ARTHROSCOPY/SURGERY	8.75	12.43	2.03	23.21
29883		KNEE ARTHROSCOPY/SURGERY	9.56	17.78	2.90	30.22

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPs ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
29884		KNEE ARTHROSCOPY/SURGERY	7.35	10.08	1.64	19.07
29885	*	KNEE ARTHROSCOPY/SURGERY	9.17	14.64	2.40	26.21
29886	*	KNEE ARTHROSCOPY/SURGERY	7.57	8.26	1.35	17.18
29887	*	KNEE ARTHROSCOPY/SURGERY	9.12	11.33	1.84	22.29
29888	*	KNEE ARTHROSCOPY/SURGERY	11.35	15.38	2.45	29.18
29889	*	KNEE ARTHROSCOPY/SURGERY	11.43	10.64	1.74	23.81
29894	*	ANKLE ARTHROSCOPY/SURGERY	7.38	9.80	1.53	18.71
29895	*	ANKLE ARTHROSCOPY/SURGERY	7.15	9.89	1.53	18.57
29897	*	ANKLE ARTHROSCOPY/SURGERY	7.35	8.80	1.32	17.47
29898		ANKLE ARTHROSCOPY/SURGERY	8.54	12.05	1.85	22.44
29909		ARTHROSCOPY OF JOINT	8.69	16.82	2.63	28.14
30100		INTRANASAL BIOPSY	1.16	0.71	0.09	1.95
30110		REMOVAL OF NOSE POLYP(S)	1.68	1.35	0.14	3.17
30115		REMOVAL OF NOSE POLYP(S)	4.51	2.57	0.27	7.35
30117		REMOVAL OF INTRANASAL LESION	3.24	2.28	0.25	5.77
30118		REMOVAL OF INTRANASAL LESION	9.80	7.32	0.84	17.96
30120		REVISION OF NOSE	5.47	7.09	1.01	13.57
30124		REMOVAL OF NOSE LESION	3.19	1.30	0.15	4.64
30125	*	REMOVAL OF NOSE LESION	7.22	5.56	0.69	13.47
30130		REMOVAL OF TURBINATE BONES	3.37	1.59	0.17	5.13
30140		REMOVAL OF TURBINATE BONES	3.49	2.72	0.30	6.51
30200		INJECTION TREATMENT OF NOSE	0.51	0.34	0.04	0.89
30210		NASAL SINUS THERAPY	0.37	0.21	0.02	0.60
30220		INSERT NASAL SEPTAL BUTTON	1.58	1.40	0.14	3.12
30300		REMOVE NASAL FOREIGN BODY	0.57	0.46	0.04	1.07
30400	*	RECONSTRUCTION OF NOSE	9.90	8.37	1.15	19.42
30410		RECONSTRUCTION OF NOSE	12.07	13.12	1.79	26.98
30420		RECONSTRUCTION OF NOSE	10.59	17.95	2.27	30.81
30430	*	REVISION OF NOSE	6.78	3.20	0.46	10.44
30435	*	REVISION OF NOSE	6.87	7.41	0.99	17.27
30450	*	REVISION OF NOSE	11.66	8.83	1.18	21.67
30520		REPAIR OF NASAL SEPTUM	5.89	9.25	1.01	16.15
30540	*	REPAIR NASAL DEFECT	7.93	4.05	0.37	12.35
30560		RELEASE OF NASAL ADHESIONS	0.77	0.56	0.06	1.39
30580		REPAIR UPPER JAW FISTULA	6.89	6.00	0.56	13.45
30600		REPAIR MOUTH/NOSE FISTULA	6.24	2.89	0.27	9.40
30620		RECONSTRUCTION INNER NOSE	8.24	9.86	1.11	19.21
30630		REPAIR NASAL SEPTUM DEFECT	8.58	5.08	0.60	14.24
30805		CAUTERIZATION INNER NOSE	2.11	0.91	0.10	3.12
30901		CONTROL OF NOSEBLEED	0.90	0.56	0.05	1.51
30905		CONTROL OF NOSEBLEED	1.71	1.80	0.17	3.68
30915		LIGATION NASAL SINUS ARTERY	7.14	4.27	0.45	11.86
30930		THERAPY FRACTURE OF NOSE	1.30	0.70	0.07	2.07
31000		IRRIGATION MAXILLARY SINUS	0.76	0.46	0.05	1.29
31002		IRRIGATION SPHENOID SINUS	1.59	0.41	0.04	2.04
31030		EXPLORATION MAXILLARY SINUS	5.94	6.59	0.91	15.44
31032		EXPLORE SINUS, REMOVE POLYPS	6.50	10.07	1.06	17.63
31087	*	REMOVAL OF FRONTAL SINUS	12.80	11.76	1.72	26.37
31090		EXPLORATION OF SINUSES	9.19	20.12	2.20	31.51
31200		REMOVAL OF ETHMOID SINUS	7.82	4.33	0.46	12.71
31201		REMOVAL OF ETHMOID SINUS	8.41	6.96	0.74	16.11
31230		REMOVAL OF UPPER JAW	22.37	22.37	2.53	47.27
31250		NASAL ENDOSCOPY, DIAGNOSTIC	1.16	1.37	0.14	2.67
31252		NASAL ENDOSCOPY, POLYPECTOMY	3.17	2.91	0.32	6.40
31254		REVISION OF ETHMOID SINUS	4.79	6.13	0.66	11.58
31255		REMOVAL OF ETHMOID SINUS	7.39	10.44	1.12	18.95
31256		EXPLORATION MAXILLARY SINUS	3.50	3.74	0.41	7.65

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL (continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
31258	*	NASAL ENDOSCOPY, SURGICAL	2.45	1.60	0.16	4.21
31260		ENDOSCOPY, MAXILLARY SINUS	2.31	2.16	0.24	4.71
31263	*	ENDOSCOPY, MAXILLARY SINUS	4.41	4.75	0.59	9.75
31265		ENDOSCOPY, MAXILLARY SINUS	3.18	5.55	0.60	9.33
31267		ENDOSCOPY, MAXILLARY SINUS	3.26	7.13	0.77	11.16
31268	*	ENDOSCOPY, MAXILLARY SINUS	3.39	6.12	0.59	10.10
31270	*	ENDOSCOPY, SPHENOID SINUS	2.81	1.00	0.10	3.91
31275		SPHENOID ENDOSCOPY, SURGICAL	3.93	5.92	0.64	10.49
31277		SPHENOID ENDOSCOPY, SURGICAL	4.37	7.25	0.78	12.40
31300		REMOVAL OF LARYNX LESION	11.34	9.42	1.08	21.84
31320	*	DIAGNOSTIC INCISION LARYNX	10.28	4.46	0.57	15.33
31360		REMOVAL OF LARYNX	18.28	20.59	2.32	41.19
31365		REMOVAL OF LARYNX	27.38	26.71	3.27	59.36
31367		PARTIAL REMOVAL OF LARYNX	20.91	17.83	1.93	40.67
31368		PARTIAL REMOVAL OF LARYNX	25.17	28.65	3.24	57.06
31370		PARTIAL REMOVAL OF LARYNX	19.96	14.70	1.74	36.40
31375		PARTIAL REMOVAL OF LARYNX	16.84	12.43	1.32	30.59
31380	*	PARTIAL REMOVAL OF LARYNX	17.69	17.29	1.87	36.85
31382	*	PARTIAL REMOVAL OF LARYNX	18.11	16.85	1.86	36.82
31390	*	REMOVAL OF LARYNX & PHARYNX	24.78	23.32	3.41	51.51
31395	*	RECONSTRUCT LARYNX & PHARYNX	30.71	37.61	4.48	72.80
31400	*	REVISION OF LARYNX	12.14	15.05	1.76	28.95
31420	*	REMOVAL OF EPIGLOTTIS	11.26	11.49	1.19	23.94
31500		INSERTION OF WINDPIPE AIRWAY	3.35	1.19	0.13	4.67
31505		DIAGNOSTIC LARYNGOSCOPY	0.65	0.41	0.04	1.10
31512	*	REMOVAL OF LARYNX LESION	2.19	2.34	0.27	4.80
31515		LARYNGOSCOPY FOR ASPIRATION	1.90	1.07	0.12	3.09
31520	*	DIAGNOSTIC LARYNGOSCOPY	2.71	1.68	0.19	4.58
31525		DIAGNOSTIC LARYNGOSCOPY	2.50	2.28	0.25	5.03
31526		DIAGNOSTIC LARYNGOSCOPY	2.73	3.23	0.35	6.31
31527	*	LARYNGOSCOPY FOR TREATMENT	3.48	2.90	0.29	6.67
31528		LARYNGOSCOPY AND DILATATION	2.52	2.69	0.30	5.51
31529	*	LARYNGOSCOPY AND DILATATION	2.86	2.94	0.30	6.10
31530		OPERATIVE LARYNGOSCOPY	3.61	3.65	0.38	7.64
31531		OPERATIVE LARYNGOSCOPY	3.98	5.33	0.60	9.89
31535		OPERATIVE LARYNGOSCOPY	3.36	4.30	0.48	8.14
31536		OPERATIVE LARYNGOSCOPY	3.56	5.90	0.63	10.09
31540		OPERATIVE LARYNGOSCOPY	4.39	5.78	0.63	10.78
31541		OPERATIVE LARYNGOSCOPY	3.78	7.28	0.78	11.84
31570		LARYNGOSCOPY WITH INJECTION	4.10	6.08	0.65	10.83
31571		LARYNGOSCOPY WITH INJECTION	3.75	6.82	0.74	11.31
31575		FIBERSCOPIC LARYNGOSCOPY	1.16	1.59	0.17	2.92
31576		FIBERSCOPIC LARYNGOSCOPY	2.10	2.89	0.31	5.30
31577		FIBERSCOPIC LARYNGOSCOPY	2.62	3.43	0.34	6.39
31578	*	FIBERSCOPIC LARYNGOSCOPY	3.02	4.43	0.46	7.91
31579		FIBERSCOPIC LARYNGOSCOPY	2.41	2.09	0.23	4.73
31580	*	REVISION OF LARYNX	11.70	14.14	1.55	27.39
31582	*	REVISION OF LARYNX	14.37	18.14	1.95	34.46
31584	*	REPAIR OF LARYNX FRACTURE	14.73	14.19	1.85	30.57
31585	*	REPAIR OF LARYNX FRACTURE	4.68	1.76	0.18	6.62
31586	*	REPAIR OF LARYNX FRACTURE	7.89	5.74	0.57	14.00
31588		REVISION OF LARYNX	11.82	13.82	1.51	27.15
31590	*	REINNERVATE LARYNX	11.89	12.99	2.05	26.93
31595	*	LARYNX NERVE SURGERY	8.05	2.53	0.34	10.92
31600		INCISION OF WINDPIPE	7.47	4.22	0.69	12.38
31601	*	INCISION OF WINDPIPE	6.84	4.37	0.60	11.81
31603		INCISION OF WINDPIPE	6.94	4.44	0.69	12.07

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
31605		INCISION OF NECK CARTILAGES	5.57	4.24	0.50	10.31
31610		INCISION OF WINDPIPE	8.36	6.10	0.83	15.29
31612		PUNCTURE/CLEAR WINDPIPE	2.80	1.06	0.10	3.96
31613		REPAIR WINDPIPE OPENING	4.50	2.03	0.24	6.77
31614		REPAIR WINDPIPE OPENING	6.50	6.79	0.74	14.03
31615		VISUALIZATION OF WINDPIPE	2.22	1.97	0.22	4.41
31622		DIAGNOSTIC BRONCHOSCOPY	2.97	3.78	0.35	7.10
31625		BRONCHOSCOPY WITH BIOPSY	3.57	3.95	0.36	7.88
31628		BRONCHOSCOPY WITH BIOPSY	3.49	5.28	0.37	9.14
31629		BRONCHOSCOPY WITH BIOPSY	3.44	4.63	0.34	8.41
31630		BRONCHOSCOPY WITH REPAIR	4.05	3.92	0.53	8.50
31631		BRONCHOSCOPY WITH DILATION	4.64	3.54	0.42	8.60
31635		REMOVE FOREIGN BODY, AIRWAY	3.92	4.63	0.55	9.10
31640		BRONCHOSCOPY & REMOVE LESION	5.24	4.36	0.60	10.20
31641		BRONCHOSCOPY, TREAT BLOCKAGE	5.35	7.90	0.85	14.10
31645		BRONCHOSCOPY, CLEAR AIRWAYS	3.36	3.71	0.30	7.37
31646		BRONCHOSCOPY, RECLEAR AIRWAYS	2.89	3.22	0.28	6.39
31656		BRONCHOSCOPY, INJECT FOR XRAY	2.30	3.44	0.31	6.05
31659		BRONCHOSCOPIC PROCEDURES	2.79	4.56	0.35	7.70
31755		REPAIR OF WINDPIPE	8.60	6.95	0.75	16.30
31760	*	REPAIR OF WINDPIPE	22.19	5.22	0.68	28.09
31800	*	REPAIR OF WINDPIPE INJURY	9.41	3.90	0.55	13.86
31805	*	REPAIR OF WINDPIPE INJURY	10.60	6.64	0.79	18.03
31820		CLOSURE OF WINDPIPE LESION	4.36	3.36	0.44	8.16
32000		DRAINAGE OF CHEST	0.98	0.93	0.08	1.99
32005		TREAT LUNG LINING CHEMICALLY	3.11	1.11	0.15	4.37
32020		TREATMENT OF COLLAPSED LUNG	4.18	2.73	0.44	7.35
32095		BIOPSY THROUGH CHEST WALL	8.34	7.57	1.30	17.21
32100		EXPLORATION/BIOPSY OF CHEST	11.63	11.67	2.18	25.68
32220		RELEASE OF LUNG	16.01	16.35	3.10	35.46
32400		NEEDLE BIOPSY CHEST LINING	1.20	1.49	0.11	2.80
32405		BIOPSY, LUNG OR MEDIASTINUM	2.31	2.15	0.18	4.64
32420		PUNCTURE/CLEAR LUNG	1.32	1.48	0.12	2.92
32440		REMOVAL OF LUNG	18.32	19.31	3.69	41.32
32480		PARTIAL REMOVAL OF LUNG	18.57	18.21	3.43	40.21
32500		PARTIAL REMOVAL OF LUNG	12.49	14.20	2.69	29.38
32815	*	CLOSE BRONCHIAL FISTULA	19.19	15.12	2.64	36.95
32820	*	RECONSTRUCT INJURED CHEST	20.69	16.21	3.15	40.05
32900		REMOVAL OF RIB(S)	19.64	8.66	1.68	29.98
32980		THERAPEUTIC PNEUMOTHORAX	1.28	0.73	0.09	2.10
33010		DRAINAGE OF HEART SAC	1.52	1.55	0.13	3.20
33025		INCISION OF HEART SAC	8.42	14.11	2.62	25.15
33100		REMOVAL OF HEART SAC	17.85	20.47	3.64	41.96
33120		REMOVAL OF HEART LESION	23.56	25.51	4.01	53.08
33207		INSERTION OF HEART PACEMAKER	7.21	9.64	1.42	18.27
33208		INSERTION OF HEART PACEMAKER	8.54	12.39	1.66	22.59
33210		INSERTION OF HEART ELECTRODE	4.68	3.52	0.27	8.47
33212		INSERTION OF PULSE GENERATOR	5.31	5.52	0.90	11.73
33219		REPAIR OF PACEMAKER	4.82	5.93	0.94	11.69
33300		REPAIR OF HEART WOUND	15.54	12.64	2.27	30.45
33320	*	REPAIR MAJOR BLOOD VESSEL(S)	14.24	14.22	2.50	30.96
33405		REPLACEMENT OF AORTIC VALVE	25.25	32.30	5.66	63.21
33425		REPAIR OF MITRAL VALVE	25.02	31.66	5.45	62.13
33430		REPLACEMENT OF MITRAL VALVE	25.12	36.79	6.45	68.36
33460		REVISION OF TRICUSPID VALVE	20.13	25.97	4.65	50.75
33474	*	REVISION OF PULMONARY VALVE	20.02	21.63	2.40	44.05
33512		CORONARY ARTERIES BYPASS	25.63	38.90	6.81	71.34

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCCPS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
33542		REMOVAL OF HEART LESION	25.47	25.97	4.85	56.29
33641		REPAIR HEART SEPTUM DEFECT	16.26	26.70	4.71	47.67
33670	*	REPAIR OF HEART CHAMBERS	23.56	6.97	0.73	31.16
33681		REPAIR HEART SEPTUM DEFECT	22.88	27.88	4.88	55.64
33692	*	REPAIR OF HEART DEFECTS	28.04	39.66	7.75	75.45
33720		REPAIR OF HEART DEFECT	25.34	0.98	0.08	26.38
33738	*	REVISION OF HEART CHAMBER	13.45	7.58	0.92	21.93
33750		MAJOR VESSEL SHUNT	18.24	2.46	0.28	21.00
33766	*	MAJOR VESSEL SHUNT	19.15	15.94	3.10	38.19
33820	*	REVISE MAJOR VESSEL	12.01	14.57	2.86	29.44
33860		ASCENDING AORTA GRAFT	31.25	29.11	5.41	65.77
33875		THORACIC AORTA GRAFT	27.00	32.70	5.83	65.53
33910	*	REMOVE LUNG ARTERY EMBOLI	25.66	18.89	3.53	48.08
33945		TRANSPLANTATION OF HEART	44.13	49.24	9.17	102.54
33970		AORTIC CIRCULATION ASSIST	11.60	7.76	1.03	20.39
33971		AORTIC CIRCULATION ASSIST	9.73	5.18	0.83	15.74
34001		REMOVAL OF ARTERY CLOT	12.42	9.34	1.77	23.53
34051	*	REMOVAL OF ARTERY CLOT	14.47	8.89	1.37	24.72
34101		REMOVAL OF ARTERY CLOT	9.29	8.66	1.78	19.73
34111		REMOVAL OF ARM ARTERY CLOT	7.63	7.82	1.64	17.09
34151		REMOVAL OF ARTERY CLOT	19.83	12.32	2.46	34.61
34201		REMOVAL OF ARTERY CLOT	9.83	9.16	1.83	20.84
34203		REMOVAL OF LEG ARTERY CLOT	11.75	8.80	1.75	22.30
34401		REMOVAL OF VEIN CLOT	12.36	7.71	1.33	21.40
34421		REMOVAL OF VEIN CLOT	9.45	7.63	1.54	18.62
34451	*	REMOVAL OF VEIN CLOT	13.94	11.02	2.20	27.16
34471		REMOVAL OF VEIN CLOT	9.68	3.51	0.54	13.73
34490		REMOVAL OF VEIN CLOT	6.91	7.53	1.60	16.04
34501	*	REPAIR VALVE, FEMORAL VEIN	9.01	6.71	1.22	16.94
34510	*	TRANSPOSITION OF VEIN VALVE	9.95	13.09	1.70	24.74
34520	*	CROSS-OVER VEIN GRAFT	10.23	11.42	1.43	23.08
34530	*	LEG VEIN FUSION	9.25	12.19	2.51	23.95
35001		REPAIR DEFECT OF ARTERY	17.21	17.00	3.39	37.60
35002	*	REPAIR ARTERY RUPTURE, NECK	17.53	20.67	3.91	42.11
35005	*	REPAIR DEFECT OF ARTERY	15.92	13.43	2.22	31.27
35011		REPAIR DEFECT OF ARTERY	14.13	14.48	2.95	31.56
35013	*	REPAIR ARTERY RUPTURE, ARM	13.98	15.88	3.29	33.15
35021	*	REPAIR DEFECT OF ARTERY	15.20	16.90	2.62	34.72
35022	*	REPAIR ARTERY RUPTURE, CHEST	17.00	16.53	2.03	35.56
35045		REPAIR DEFECT OF ARM ARTERY	10.59	12.79	2.59	25.97
35081		REPAIR DEFECT OF ARTERY	21.93	22.78	4.44	49.13
35082		REPAIR ARTERY RUPTURE, AORTA	22.03	24.23	4.84	51.10
35091		REPAIR DEFECT OF ARTERY	22.33	23.89	4.47	50.69
35092		REPAIR ARTERY RUPTURE, BELLY	24.00	27.47	5.45	56.92
35102		REPAIR DEFECT OF ARTERY	21.00	23.60	4.61	49.21
35103		REPAIR ARTERY RUPTURE, GROIN	26.93	27.73	5.52	60.18
35111	*	REPAIR DEFECT OF ARTERY	18.08	14.47	3.22	35.75
35112	*	REPAIR ARTERY RUPTURE, SPLEEN	17.77	14.33	3.03	35.13
35121		REPAIR DEFECT OF ARTERY	17.89	20.48	3.93	42.30
35122	*	REPAIR ARTERY RUPTURE, BELLY	19.14	19.81	4.37	43.32
35131		REPAIR DEFECT OF ARTERY	18.08	16.60	3.28	37.94
35132		REPAIR ARTERY RUPTURE, GROIN	19.63	19.51	3.73	43.07
35141		REPAIR DEFECT OF ARTERY	14.11	15.67	3.07	32.85
35142		REPAIR ARTERY RUPTURE, THIGH	15.00	12.33	2.70	30.03
35151		REPAIR DEFECT OF ARTERY	14.93	16.16	3.10	34.19
35152		REPAIR ARTERY RUPTURE, KNEE	15.40	4.00	1.08	20.48
35161		REPAIR DEFECT OF ARTERY	16.37	13.88	2.84	33.09

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCCPS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
35162	*	REPAIR ARTERY RUPTURE	16.87	8.89	2.05	27.81
35180	*	REPAIR BLOOD VESSEL LESION	12.92	8.99	1.58	23.49
35182	*	REPAIR BLOOD VESSEL LESION	16.03	10.87	1.65	28.55
35184	*	REPAIR BLOOD VESSEL LESION	11.46	9.58	1.93	22.97
35188	*	REPAIR BLOOD VESSEL LESION	13.05	10.44	2.02	25.51
35189	*	REPAIR BLOOD VESSEL LESION	17.07	12.32	2.16	31.55
35190	*	REPAIR BLOOD VESSEL LESION	11.15	10.60	2.19	23.94
35201	*	REPAIR BLOOD VESSEL LESION	9.46	10.05	1.91	21.42
35206	*	REPAIR BLOOD VESSEL LESION	9.01	10.25	2.04	21.30
35207	*	REPAIR BLOOD VESSEL LESION	8.15	9.39	1.65	19.19
35211	*	REPAIR BLOOD VESSEL LESION	18.16	14.77	2.82	35.75
35216	*	REPAIR BLOOD VESSEL LESION	17.40	14.49	2.81	34.70
35221	*	REPAIR BLOOD VESSEL LESION	13.42	10.84	2.14	26.40
35226	*	REPAIR BLOOD VESSEL LESION	8.68	10.62	2.03	21.33
35231	*	REPAIR BLOOD VESSEL LESION	11.43	14.33	2.67	28.43
35236	*	REPAIR BLOOD VESSEL LESION	9.96	12.90	2.57	25.43
35241	*	REPAIR BLOOD VESSEL LESION	18.54	9.97	1.92	30.43
35246	*	REPAIR BLOOD VESSEL LESION	14.05	8.42	0.63	21.10
35251	*	REPAIR BLOOD VESSEL LESION	14.88	18.06	3.56	36.50
35256	*	REPAIR BLOOD VESSEL LESION	10.77	12.35	2.37	25.49
35261	*	REPAIR BLOOD VESSEL LESION	11.05	10.03	2.07	23.15
35266	*	REPAIR BLOOD VESSEL LESION	10.26	11.82	2.43	24.51
35271	*	REPAIR BLOOD VESSEL LESION	18.20	14.50	2.98	35.68
35276	*	REPAIR BLOOD VESSEL LESION	17.89	10.87	2.28	31.04
35281	*	REPAIR BLOOD VESSEL LESION	14.83	16.43	3.22	34.48
35286	*	REPAIR BLOOD VESSEL LESION	11.45	11.54	2.30	25.29
35301	*	RECHANNELING OF ARTERY	14.76	15.28	2.97	33.01
35311	*	RECHANNELING OF ARTERY	15.71	23.44	4.89	44.04
35321	*	RECHANNELING OF ARTERY	10.71	14.11	2.93	27.75
35331	*	RECHANNELING OF ARTERY	15.98	12.35	2.42	30.75
35341	*	RECHANNELING OF ARTERY	15.22	18.14	3.69	37.05
35351	*	RECHANNELING OF ARTERY	12.40	15.74	3.13	31.27
35355	*	RECHANNELING OF ARTERY	13.57	16.18	3.14	32.89
35361	*	RECHANNELING OF ARTERY	16.97	20.06	4.00	41.03
35363	*	RECHANNELING OF ARTERY	18.57	23.31	4.50	46.38
35371	*	RECHANNELING OF ARTERY	11.15	13.30	2.65	27.10
35381	*	RECHANNELING OF ARTERY	12.54	14.71	2.92	30.17
35450	*	REPAIR ARTERIAL BLOCKAGE	9.58	12.93	1.33	23.84
35452	*	REPAIR ARTERIAL BLOCKAGE	10.66	13.69	1.88	26.23
35454	*	REPAIR ARTERIAL BLOCKAGE	12.24	9.26	1.53	23.03
35456	*	REPAIR ARTERIAL BLOCKAGE	10.22	10.26	1.64	22.12
35458	*	REPAIR ARTERIAL BLOCKAGE	10.91	9.17	1.70	21.78
35501	*	ARTERY BYPASS GRAFT	16.58	17.91	3.18	37.67
35506	*	ARTERY BYPASS GRAFT	15.34	20.03	3.80	39.17
35507	*	ARTERY BYPASS GRAFT	15.33	18.21	3.68	37.22
35508	*	ARTERY BYPASS GRAFT	15.37	18.31	4.11	37.79
35509	*	ARTERY BYPASS GRAFT	15.15	18.70	3.85	37.70
35511	*	ARTERY BYPASS GRAFT	14.82	18.49	3.41	36.72
35515	*	ARTERY BYPASS GRAFT	15.04	20.36	3.64	39.04
35516	*	ARTERY BYPASS GRAFT	15.16	17.57	3.58	36.31
35518	*	ARTERY BYPASS GRAFT	14.45	17.84	3.43	35.72
35521	*	ARTERY BYPASS GRAFT	13.99	14.82	2.77	31.58
35526	*	ARTERY BYPASS GRAFT	15.27	19.58	3.81	38.66
35531	*	ARTERY BYPASS GRAFT	18.06	20.95	4.05	41.06
35533	*	ARTERY BYPASS GRAFT	16.11	21.85	4.60	42.56
35536	*	ARTERY BYPASS GRAFT	16.59	20.79	4.20	41.58
35541	*	ARTERY BYPASS GRAFT	15.78	20.07	3.73	39.58

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCCPS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
35546		ARTERY BYPASS GRAFT	16.90	22.27	4.43	43.60
35548	*	ARTERY BYPASS GRAFT	16.81	15.80	3.51	36.12
35549		ARTERY BYPASS GRAFT	18.06	23.83	4.69	46.58
35551		ARTERY BYPASS GRAFT	17.79	18.96	3.88	40.63
35556		ARTERY BYPASS GRAFT	16.02	19.65	3.89	39.56
35558		ARTERY BYPASS GRAFT	12.03	17.18	3.29	32.50
35560		ARTERY BYPASS GRAFT	16.84	20.85	4.06	41.75
35563	*	ARTERY BYPASS GRAFT	14.10	4.26	1.15	19.51
35565		ARTERY BYPASS GRAFT	14.71	18.34	3.60	36.65
35566		ARTERY BYPASS GRAFT	16.43	20.96	4.15	41.54
35571		ARTERY BYPASS GRAFT	15.23	19.91	3.97	39.11
35582		VEIN BYPASS GRAFT	15.77	24.17	5.00	44.94
35583		VEIN BYPASS GRAFT	14.98	21.69	4.32	40.99
35585		VEIN BYPASS GRAFT	17.90	24.15	4.88	46.93
35587		VEIN BYPASS GRAFT	16.43	22.47	4.31	43.21
35601		ARTERY BYPASS GRAFT	14.78	18.62	3.26	36.66
35606		ARTERY BYPASS GRAFT	14.91	18.05	3.62	36.58
35612	*	ARTERY BYPASS GRAFT	15.28	17.51	3.46	36.25
35616		ARTERY BYPASS GRAFT	14.90	17.88	3.65	36.43
35621		ARTERY BYPASS GRAFT	14.06	19.96	3.97	37.99
35628	*	ARTERY BYPASS GRAFT	15.59	20.80	4.10	40.49
35631		ARTERY BYPASS GRAFT	19.67	18.29	3.65	41.61
35636	*	ARTERY BYPASS GRAFT	14.74	19.37	3.57	37.68
35637	*	ARTERY BYPASS GRAFT	14.90	18.02	3.68	36.58
35638	*	ARTERY BYPASS GRAFT	14.21	21.45	4.36	40.02
35641		ARTERY BYPASS GRAFT	21.96	21.25	4.23	47.44
35642	*	ARTERY BYPASS GRAFT	15.16	10.39	1.50	27.05
35645	*	ARTERY BYPASS GRAFT	15.16	21.36	3.92	40.44
35646		ARTERY BYPASS GRAFT	16.18	25.03	4.97	46.18
35650		ARTERY BYPASS GRAFT	13.86	17.81	3.70	35.37
35651		ARTERY BYPASS GRAFT	15.44	25.15	4.89	45.48
35654		ARTERY BYPASS GRAFT	14.96	23.32	4.69	42.97
35656		ARTERY BYPASS GRAFT	15.43	18.86	3.77	38.06
35661		ARTERY BYPASS GRAFT	12.55	17.05	3.37	32.97
35663	*	ARTERY BYPASS GRAFT	14.10	18.87	3.93	36.90
35665		ARTERY BYPASS GRAFT	14.53	18.51	3.72	36.76
35666		ARTERY BYPASS GRAFT	18.81	20.21	4.03	43.05
35671		ARTERY BYPASS GRAFT	16.16	21.70	4.20	42.06
35681		ARTERY BYPASS GRAFT	16.15	13.27	2.71	34.13
35701		EXPLORATION, CAROTID ARTERY	8.56	6.59	1.21	16.36
35721		EXPLORATION, FEMORAL ARTERY	7.93	4.96	1.00	13.89
35741		EXPLORATION POPLITEAL ARTERY	8.37	5.40	1.08	14.85
35761		EXPLORATION OF ARTERY/VEIN	7.95	5.43	1.05	14.44
35800		EXPLORE NECK VESSELS	8.44	4.90	0.90	14.24
35820		EXPLORE CHEST VESSELS	12.36	8.19	1.48	22.03
35840		EXPLORE ABDOMINAL VESSELS	11.23	7.35	1.47	20.05
35860		EXPLORE LIMB VESSELS	8.20	5.42	1.07	14.69
35870		REPAIR VESSEL GRAFT DEFECT	16.16	14.22	2.91	33.29
35875		REMOVAL OF CLOT IN GRAFT	9.06	8.54	1.73	19.33
35900		REMOVE VESSEL GRAFT	10.45	6.90	1.41	18.76
35910		REVISE CIRCULATION	15.86	12.57	2.45	30.88
36000		ESTABLISH ACCESS TO VEIN	0.33	0.44	0.03	0.80
36010		ESTABLISH ACCESS TO VEIN	2.56	2.15	0.33	5.06
36100		ESTABLISH ACCESS TO ARTERY	3.53	2.35	0.26	6.14
36120		ESTABLISH ACCESS TO ARTERY	3.66	2.40	0.30	6.56
36140		ESTABLISH ACCESS TO ARTERY	3.79	1.43	0.25	5.47
36145		ARTERY TO VEIN SHUNT	2.48	2.71	0.32	5.51

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL (continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
36160		ESTABLISH ACCESS TO AORTA	4.45	2.44	0.38	7.27
36200		ESTABLISH ACCESS TO AORTA	3.66	2.87	0.28	6.81
36215		ESTABLISH ACCESS TO AORTA	4.75	1.52	0.15	6.42
36230		ESTABLISH ACCESS TO ARTERIES	5.05	3.10	0.25	8.40
36245		ESTABLISH ACCESS TO AORTA	5.39	1.50	0.14	7.03
36260		INSERTION OF INFUSION PUMP	9.84	6.85	1.42	18.12
36261		REVISION OF INFUSION PUMP	5.36	0.90	0.21	6.47
36262		REMOVAL OF INFUSION PUMP	3.93	1.80	0.37	6.10
36400		ESTABLISH ACCESS TO VEIN	1.12	0.09	0.01	1.22
36405		ESTABLISH ACCESS TO VEIN	0.64	0.32	0.02	0.98
36406		ESTABLISH ACCESS TO VEIN	1.02	0.14	0.01	1.17
36410		ESTABLISH ACCESS TO VEIN	0.63	0.23	0.02	0.88
36420		ESTABLISH ACCESS TO VEIN	2.16	0.40	0.03	2.59
36425		ESTABLISH ACCESS TO VEIN	1.96	0.09	0.03	2.08
36430		BLOOD TRANSFUSION SERVICE	1.18	0.46	0.03	1.67
36440	*	BLOOD TRANSFUSION SERVICE	0.61	0.52	0.04	1.17
36450	*	EXCHANGE TRANSFUSION SERVICE	2.37	0.14	0.01	2.52
36455		EXCHANGE TRANSFUSION SERVICE	2.58	2.74	0.31	5.63
36470		INJECTION THERAPY OF VEIN	0.67	0.26	0.03	0.96
36471		INJECTION THERAPY OF VEINS	0.88	0.36	0.04	1.28
36488		INSERTION OF CATHETER, VEIN	1.20	0.98	0.13	2.31
36489		INSERTION OF CATHETER, VEIN	1.30	1.08	0.17	2.55
36490		INSERTION OF CATHETER, VEIN	1.54	1.37	0.20	3.11
36491		INSERTION OF CATHETER, VEIN	1.70	1.63	0.29	3.62
36495		IMPLANT INFUSION PUMP	5.12	4.38	1.06	11.16
36496		REVISE INFUSION PUMP	5.09	2.80	0.52	8.41
36497		REMOVE INFUSION PUMP	3.43	1.80	0.37	5.60
36500		INSERTION OF CATHETER, VEIN	1.87	0.10	0.02	1.79
36510		INSERTION OF CATHETER, VEIN	0.93	0.32	0.02	1.17
36520		PLASMA AND/OR CELL EXCHANGE	2.46	1.85	0.10	4.21
36600		WITHDRAWAL OF ARTERIAL BLOOD	0.33	0.24	0.02	0.59
36620		ESTABLISH ACCESS TO ARTERY	1.22	0.66	0.13	2.01
36625		ESTABLISH ACCESS TO ARTERY	2.23	0.67	0.16	3.28
36640		INSERTION CATHETER, ARTERY	2.23	2.02	0.31	4.56
36660	*	INSERTION CATHETER, ARTERY	1.13	0.81	0.05	1.79
36800		INSERTION OF CANNULA	3.69	2.22	0.27	6.18
36810		INSERTION OF CANNULA	5.78	4.32	0.67	10.77
36815		INSERTION OF CANNULA	4.53	3.09	0.80	8.22
36820		INSERTION OF CANNULA	4.39	6.93	1.43	12.75
36821		ARTERY-VEIN FUSION	8.91	7.61	1.55	18.07
36825		ARTERY-VEIN GRAFT	9.93	11.58	2.28	23.79
36830		ARTERY-VEIN GRAFT	8.27	11.81	2.43	22.51
36860		CANNULA DECLOTTING	4.50	1.26	0.27	6.75
36861		CANNULA DECLOTTING	3.77	4.49	0.91	9.17
37140		REVISION OF CIRCULATION	16.95	13.90	2.95	33.80
37145	*	REVISION OF CIRCULATION	14.04	17.14	1.75	32.93
37160		REVISION OF CIRCULATION	17.00	13.27	2.78	33.05
37180	*	REVISION OF CIRCULATION	17.12	19.81	3.85	40.78
37181		SPLICE SPLEEN/KIDNEY VEINS	16.20	14.38	2.79	35.37
37190		REPAIR OF CIRCULATION DEFECT	9.89	6.76	1.45	18.10
37565		LIGATION OF NECK VEIN	4.80	3.72	0.68	9.20
37600		LIGATION OF NECK ARTERY	5.92	6.08	0.77	12.77
37605	*	LIGATION OF NECK ARTERY	8.63	5.15	0.96	14.74
37606	*	LIGATION OF NECK ARTERY	9.37	6.24	0.63	16.24
37609		TEMPORAL ARTERY PROCEDURE	2.42	2.29	0.39	5.10
37615	*	LIGATION OF NECK ARTERY	6.45	5.89	0.86	13.20
37616		LIGATION OF CHEST ARTERY	15.60	4.10	0.78	20.48

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
37617		LIGATION OF ABDOMEN ARTERY	15.08	6.31	1.27	22.66
37618		LIGATION OF EXTREMITY ARTERY	6.23	5.27	1.05	12.55
37620		REVISION OF MAJOR VEIN	11.17	9.73	1.87	22.77
37650		REVISION OF MAJOR VEIN	5.50	3.86	0.48	9.84
37660	*	REVISION OF MAJOR VEIN	10.25	5.71	1.02	16.98
37700		REVISE LEG VEIN	3.76	3.63	0.73	8.12
37720		REMOVAL OF LEG VEIN	6.85	5.17	1.04	13.06
37730		REMOVAL OF LEG VEINS	7.78	6.93	1.39	16.10
37735		REMOVAL OF LEG VEINS/LESION	10.52	8.16	1.62	20.30
37760		REVISION OF LEG VEINS	6.26	7.61	1.55	15.42
37780		REVISION OF LEG VEIN	4.02	1.93	0.35	6.30
37785		REVISE SECONDARY VARICOSITY	3.78	0.99	0.18	4.95
38100		REMOVAL OF SPLEEN, TOTAL	12.73	8.80	1.85	23.38
38101	*	REMOVAL OF SPLEEN, PARTIAL	12.50	5.89	1.13	19.52
38115		REPAIR OF RUPTURED SPLEEN	13.69	7.43	1.44	22.56
38200	*	INJECTION FOR SPLEEN X-RAY	3.30	1.53	0.14	4.97
38230	*	BONE MARROW COLLECTION	3.36	7.59	0.74	11.69
38300		DRAINAGE LYMPH NODE LESION	1.03	0.59	0.09	1.71
38305		DRAINAGE LYMPH NODE LESION	4.50	1.91	0.34	6.75
38308		INCISION OF LYMPH CHANNELS	4.83	3.07	0.42	8.32
38380	*	THORACIC DUCT PROCEDURE	6.93	5.99	0.96	13.88
38381	*	THORACIC DUCT PROCEDURE	6.72	7.10	1.41	17.23
38382	*	THORACIC DUCT PROCEDURE	9.22	4.28	1.00	14.50
38500		BIOPSY/REMOVAL,LYMPH NODE(S)	3.01	1.59	0.30	4.90
38505		NEEDLE BIOPSY,LYMPH NODE(S)	1.64	1.11	0.16	2.91
38510		BIOPSY/REMOVAL,LYMPH NODE(S)	4.13	2.61	0.45	7.19
38520		BIOPSY/REMOVAL,LYMPH NODE(S)	5.15	3.09	0.59	8.83
38525		BIOPSY/REMOVAL,LYMPH NODE(S)	4.64	2.70	0.57	7.91
38530	*	BIOPSY/REMOVAL,LYMPH NODE(S)	6.18	3.02	0.60	9.80
38542		EXPLORE DEEP NODE(S), NECK	5.75	4.31	0.60	10.66
38550		REMOVAL NECK/ARMPIT LESION	6.28	3.11	0.82	10.01
38555		REMOVAL NECK/ARMPIT LESION	10.53	5.91	1.09	17.53
38562		REMOVAL, PELVIC LYMPH NODES	10.25	6.74	1.17	18.16
38564		REMOVAL, ABDOMEN LYMPH NODES	10.61	6.86	1.38	18.85
38700		REMOVAL OF LYMPH NODES, NECK	9.26	9.31	1.24	19.83
38720		REMOVAL OF LYMPH NODES, NECK	13.05	16.76	2.15	31.96
38724		REMOVAL OF LYMPH NODES, NECK	14.05	14.78	2.07	30.90
38740		REMOVE ARMPIT LYMPH NODES	6.67	4.52	0.96	12.15
38745		REMOVE ARMPITS LYMPH NODES	8.59	6.45	1.80	16.84
38760		REMOVE GROIN LYMPH NODES	7.83	6.44	1.31	15.58
38765		REMOVE GROIN LYMPH NODES	13.46	10.73	2.14	26.33
38770		REMOVE PELVIS LYMPH NODES	13.26	15.61	1.75	30.62
38780		REMOVE ABDOMEN LYMPH NODES	16.11	16.46	3.20	35.77
38790		INJECTION FOR LYMPHATIC XRAY	1.85	2.45	0.22	4.52
38794	*	ACCESS THORACIC LYMPH DUCT	4.30	1.85	0.24	6.39
39010		EXPLORATION OF MEDIASTINUM	12.14	9.84	1.82	23.80
39020		EXPLORATION OF MEDIASTINUM	11.52	13.48	2.41	27.41
39400		VISUALIZATION OF MEDIASTINUM	4.88	5.54	1.03	11.45
39501		REPAIR DIAPHRAGM LACERATION	11.64	9.19	1.49	22.32
39502		REPAIR PARAESOPHAGEAL HERNIA	15.07	12.28	2.52	29.87
39503	*	REPAIR OF DIAPHRAGM HERNIA	16.73	6.95	0.99	24.67
39520	*	REPAIR OF DIAPHRAGM HERNIA	12.38	12.81	2.50	27.69
39530	*	REPAIR OF DIAPHRAGM HERNIA	15.11	14.40	2.81	32.32
39531	*	REPAIR OF DIAPHRAGM HERNIA	15.70	16.78	3.01	35.49
39540	*	REPAIR OF DIAPHRAGM HERNIA	13.34	9.37	1.84	24.55
39541	*	REPAIR OF DIAPHRAGM HERNIA	13.83	12.39	2.41	28.63
39545	*	REVISION OF DIAPHRAGM	13.05	16.10	3.07	32.22

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
39547	*	REVISION OF DIAPHRAGM	13.49	11.89	1.43	26.81
40490		BIOPSY OF LIP	1.71	0.76	0.07	2.54
40500		PARTIAL EXCISION OF LIP	6.71	7.15	0.97	14.83
40510		PARTIAL EXCISION OF LIP	4.85	5.61	0.76	11.22
40520		PARTIAL EXCISION OF LIP	4.82	4.61	0.70	10.13
40525		RECONSTRUCT LIP WITH FLAP	7.71	9.42	1.45	18.58
40527	*	RECONSTRUCT LIP WITH FLAP	9.27	11.24	1.65	22.16
40530		PARTIAL REMOVAL OF LIP	5.47	4.77	0.70	10.94
40650		REPAIR LIP	3.47	3.66	0.47	7.60
40652	*	REPAIR LIP	4.12	5.05	0.73	9.90
40654	*	REPAIR LIP	4.97	6.63	0.94	12.54
40700	*	REPAIR CLEFT LIP	11.80	2.94	0.30	15.04
41000		DRAINAGE OF MOUTH LESION	0.78	0.70	0.07	1.55
41005	*	DRAINAGE OF MOUTH LESION	0.92	0.61	0.06	1.59
41006	*	DRAINAGE OF MOUTH LESION	3.22	1.20	0.12	4.54
41007	*	DRAINAGE OF MOUTH LESION	3.06	1.26	0.13	4.45
41008	*	DRAINAGE OF MOUTH LESION	3.36	1.03	0.10	4.49
41009	*	DRAINAGE OF MOUTH LESION	3.56	1.23	0.12	4.91
41010	*	INCISION OF TONGUE FOLD	1.64	0.41	0.04	2.09
41015	*	DRAINAGE OF MOUTH LESION	3.95	0.87	0.09	4.91
41016	*	DRAINAGE OF MOUTH LESION	4.91	1.36	0.14	6.41
41017	*	DRAINAGE OF MOUTH LESION	5.31	1.10	0.10	6.51
41018	*	DRAINAGE OF MOUTH LESION	5.58	1.92	0.18	7.68
41100		BIOPSY OF TONGUE	1.68	0.81	0.08	2.57
41105		BIOPSY OF TONGUE	1.47	1.03	0.11	2.61
41108		BIOPSY OF FLOOR OF MOUTH	1.06	0.88	0.09	2.03
41110		EXCISION OF TONGUE LESION	1.55	1.21	0.13	2.89
41112		EXCISION OF TONGUE LESION	2.80	2.45	0.26	5.51
41113		EXCISION OF TONGUE LESION	3.27	3.08	0.32	6.67
41114	*	EXCISION OF TONGUE LESION	8.37	5.85	0.69	14.71
41115	*	EXCISION OF TONGUE FOLD	1.80	1.28	0.12	3.20
41116	*	EXCISION OF MOUTH LESION	2.51	2.38	0.26	5.15
41120		PARTIAL REMOVAL OF TONGUE	9.38	7.57	0.90	17.85
41130		PARTIAL REMOVAL OF TONGUE	10.90	9.41	1.17	21.48
41135		TONGUE AND NECK SURGERY	20.19	21.45	2.83	44.27
41140	*	REMOVAL OF TONGUE	24.92	13.52	1.85	40.29
41145	*	TONGUE REMOVAL; NECK SURGERY	22.60	11.51	2.05	36.16
41150		TONGUE, MOUTH, JAW SURGERY	20.57	19.79	2.57	42.93
41153		TONGUE, MOUTH, NECK SURGERY	22.50	18.18	2.49	44.17
41155		TONGUE, JAW, & NECK SURGERY	26.69	31.63	3.89	62.21
41250		REPAIR TONGUE LACERATION	1.16	1.01	0.10	2.27
41251	*	REPAIR TONGUE LACERATION	1.54	0.92	0.10	2.56
41252	*	REPAIR TONGUE LACERATION	2.29	2.14	0.23	4.66
41500	*	FIXATION OF TONGUE	3.72	1.32	0.10	5.14
41510	*	TONGUE TO LIP SURGERY	3.53	4.32	0.57	8.42
41520	*	RECONSTRUCTION, TONGUE FOLD	2.79	1.41	0.13	4.33
42000		DRAINAGE MOUTH ROOF LESION	0.73	0.61	0.05	1.39
42100		BIOPSY ROOF OF MOUTH	1.34	0.79	0.08	2.21
42104		EXCISION LESION, MOUTH ROOF	1.69	1.60	0.16	3.45
42106		EXCISION LESION, MOUTH ROOF	2.80	2.16	0.21	5.17
42107		EXCISION LESION, MOUTH ROOF	4.46	4.33	0.46	9.25
42145		REPAIR, PALATE, PHARYNX/UVULA	7.48	14.13	1.51	23.12
42160		TREATMENT MOUTH ROOF LESION	1.85	1.31	0.14	3.30
42182	*	REPAIR PALATE	4.48	2.03	0.21	6.72
42200	*	RECONSTRUCT CLEFT PALATE	9.15	8.16	0.94	18.25
42205	*	RECONSTRUCT CLEFT PALATE	9.51	9.68	0.81	19.98
42210	*	RECONSTRUCT CLEFT PALATE	10.63	20.65	1.58	33.06

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
42215	*	RECONSTRUCT CLEFT PALATE	8.95	11.87	1.26	22.08
42220	*	RECONSTRUCT CLEFT PALATE	7.08	7.70	1.15	15.91
42225	*	RECONSTRUCT CLEFT PALATE	9.65	11.89	1.65	23.39
42226	*	LENGTHENING OF PALATE	10.02	8.90	0.87	19.79
42235	*	REPAIR PALATE	7.96	5.35	0.47	13.78
42281	*	INSERTION, PALATE PROSTHESIS	1.87	3.00	0.29	5.16
42300		DRAINAGE OF SALIVARY GLAND	1.45	0.94	0.11	2.50
42305		DRAINAGE OF SALIVARY GLAND	5.93	1.97	0.24	8.14
42310		DRAINAGE OF SALIVARY GLAND	1.06	0.90	0.10	2.06
42320	*	DRAINAGE OF SALIVARY GLAND	1.85	1.75	0.21	3.81
42325	*	CREATE SALIVARY CYST DRAIN	2.83	1.84	0.19	4.86
42326	*	CREATE SALIVARY CYST DRAIN	3.88	2.51	0.19	6.58
42330		REMOVAL OF SALIVARY STONE	2.29	1.09	0.11	3.49
42335		REMOVAL OF SALIVARY STONE	3.40	2.34	0.25	5.99
42340		REMOVAL OF SALIVARY STONE	4.75	3.58	0.42	8.73
42400		BIOPSY OF SALIVARY GLAND	0.47	0.77	0.10	1.34
42408		EXCISION OF SALIVARY CYST	4.89	2.70	0.30	7.89
42409	*	DRAINAGE OF SALIVARY CYST	2.88	2.59	0.27	5.74
42410	*	EXCISE PAROTID GLAND/LESION	9.44	5.36	0.85	15.65
42415	*	EXCISE PAROTID GLAND/LESION	14.90	13.36	1.77	30.03
42420	*	EXCISE PAROTID GLAND/LESION	18.08	15.45	1.94	35.47
42425	*	EXCISE PAROTID GLAND/LESION	13.13	10.98	1.41	25.52
42426	*	EXCISE PAROTID GLAND/LESION	24.41	25.10	3.35	52.86
42440		EXCISION SUBMAXILLARY GLAND	7.02	8.32	1.02	16.38
42450		EXCISION SUBLINGUAL GLAND	4.85	3.18	0.32	8.15
42500		REPAIR SALIVARY DUCT	4.31	4.37	0.47	9.15
42505	*	REPAIR SALIVARY DUCT	6.29	7.41	0.87	14.57
42507	*	PAROTID DUCT DIVERSION	6.33	6.79	0.90	14.02
42508	*	PAROTID DUCT DIVERSION	9.18	12.34	1.42	22.94
42509	*	PAROTID DUCT DIVERSION	11.77	4.25	0.72	16.74
42510	*	PAROTID DUCT DIVERSION	8.20	2.18	0.21	10.59
42600	*	CLOSURE OF SALIVARY FISTULA	4.86	3.83	0.44	9.13
42650		DILATION OF SALIVARY DUCT	0.60	0.39	0.04	1.03
42700		DRAINAGE OF TONSIL ABSCESS	0.93	0.82	0.09	1.84
42720		DRAINAGE OF THROAT ABSCESS	2.77	1.87	0.20	4.84
42800		BIOPSY OF THROAT	1.42	0.76	0.08	2.26
42802		BIOPSY OF THROAT	1.58	1.01	0.11	2.70
42804		BIOPSY OF UPPER NOSE/THROAT	1.27	1.06	0.12	2.45
42806		BIOPSY OF UPPER NOSE/THROAT	1.63	1.36	0.15	3.14
42808		EXCISE PHARYNX LESION	2.39	2.11	0.23	4.73
42809		REMOVE PHARYNX FOREIGN BODY	1.86	0.81	0.08	2.75
42810		EXCISION OF NECK CYST	4.22	2.42	0.37	7.01
42815		EXCISION OF NECK CYST	7.18	8.71	1.13	17.02
42820	*	REMOVE TONSILS AND ADENOIDS	3.82	2.42	0.32	6.56
42821	*	REMOVE TONSILS AND ADENOIDS	4.36	4.03	0.48	8.87
42825	*	REMOVAL OF TONSILS	3.40	3.75	0.45	7.60
42826	*	REMOVAL OF TONSILS	3.39	4.03	0.45	7.87
42830	*	REMOVAL OF ADENOIDS	2.64	2.23	0.31	5.18
42831	*	REMOVAL OF ADENOIDS	2.77	2.52	0.27	5.56
42836	*	REMOVAL OF ADENOIDS	3.29	1.84	0.20	5.33
42842	*	EXTENSIVE SURGERY OF THROAT	8.63	6.30	0.71	15.64
42844	*	EXTENSIVE SURGERY OF THROAT	13.51	10.85	1.29	25.65
42845	*	EXTENSIVE SURGERY OF THROAT	23.24	10.55	1.25	35.04
42860		EXCISION OF TONSIL TAGS	2.27	1.75	0.19	4.21
42870	*	EXCISION OF LINGUAL TONSIL	5.49	2.30	0.25	8.04
42880		EXCISE NOSE/THROAT LESION	6.39	4.18	0.47	11.04
42890		PARTIAL REMOVAL OF PHARYNX	12.40	8.58	0.97	21.95

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPs ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
42892	*	REVISION OF PHARYNGEAL WALLS	14.82	10.99	1.28	27.09
42894	*	REVISION OF PHARYNGEAL WALLS	21.98	14.67	1.69	38.34
42900	*	REPAIR THROAT WOUND	5.31	2.85	0.31	8.47
42950		RECONSTRUCTION OF THROAT	8.18	9.84	1.09	19.11
42955	*	SURGICAL OPENING OF THROAT	6.90	2.80	0.34	10.04
42960	*	CONTROL THROAT BLEEDING	2.43	1.01	0.11	3.55
42961	*	CONTROL THROAT BLEEDING	5.50	1.79	0.19	7.48
42962	*	CONTROL THROAT BLEEDING	7.05	2.77	0.31	10.13
42970		CONTROL NOSE/THROAT BLEEDING	5.07	1.00	0.09	6.16
42971	*	CONTROL NOSE/THROAT BLEEDING	5.90	2.91	0.33	9.14
42972	*	CONTROL NOSE/THROAT BLEEDING	6.96	2.32	0.36	9.64
43000		INCISION OF ESOPHAGUS	7.05	3.30	0.35	10.70
43020	*	INCISION OF ESOPHAGUS	8.21	3.98	0.43	12.62
43030		THROAT MUSCLE SURGERY	7.80	10.21	1.25	19.06
43040	*	INCISION OF ESOPHAGUS	10.50	7.81	0.93	19.24
43045	*	INCISION OF ESOPHAGUS	20.00	9.07	1.42	30.49
43100	*	EXCISION OF ESOPHAGUS LESION	8.99	7.33	0.90	17.22
43101	*	EXCISION OF ESOPHAGUS LESION	12.62	13.03	2.57	28.22
43105	*	REMOVAL OF UPPER ESOPHAGUS	17.54	17.14	2.10	36.78
43106	*	REMOVAL OF UPPER ESOPHAGUS	21.15	29.84	3.30	54.29
43110		PARTIAL REMOVAL OF ESOPHAGUS	27.51	22.09	4.30	53.90
43111	*	PARTIAL REMOVAL OF ESOPHAGUS	23.85	17.27	3.80	44.92
43115	*	PARTIAL REMOVAL OF ESOPHAGUS	25.38	25.03	4.67	55.08
43119		REMOVAL OF ESOPHAGUS	24.13	22.50	4.41	51.04
43120		REMOVE ESOPHAGUS & STOMACH	24.32	21.45	4.19	49.96
43130		REMOVAL OF ESOPHAGUS POUCH	11.49	10.90	1.66	24.05
43135		REMOVAL OF ESOPHAGUS POUCH	12.19	12.17	2.24	26.60
43136	*	FIXATION OF ESOPHAGUS POUCH	10.86	10.45	1.57	22.88
43200		ESOPHAGUS ENDOSCOPY	2.50	2.73	0.26	5.49
43202		ESOPHAGUS ENDOSCOPY, BIOPSY	2.78	3.46	0.33	6.57
43204		ESOPHAGUS ENDOSCOPY & INJECT	4.83	5.63	0.38	10.84
43215		ESOPHAGUS ENDOSCOPY	4.07	4.55	0.49	9.11
43217		ESOPHAGUS ENDOSCOPY	4.08	4.65	0.38	9.11
43219		ESOPHAGUS ENDOSCOPY	5.31	4.06	0.34	9.71
43220		ESOPHAGUS ENDOSCOPY, DILATION	3.41	3.41	0.30	7.12
43226		ESOPHAGUS ENDOSCOPY, DILATION	3.14	3.96	0.27	7.37
43227		ESOPHAGUS ENDOSCOPY, REPAIR	4.83	5.20	0.35	10.38
43228		ESOPHAGUS ENDOSCOPY, REPAIR	4.99	4.85	0.39	10.23
43234		UPPER GI ENDOSCOPY, EXAM	2.42	3.20	0.32	5.94
43235		UPPER GI ENDOSCOPY, DIAGNOSIS	2.54	3.86	0.30	6.70
43239		UPPER GI ENDOSCOPY, BIOPSY	3.08	4.43	0.34	7.85
43241		UPPER GI ENDOSCOPY WITH TUBE	4.04	4.85	0.39	9.28
43245		OPERATIVE UPPER GI ENDOSCOPY	4.42	5.03	0.42	9.87
43246		OPERATIVE UPPER GI ENDOSCOPY	4.61	6.16	0.54	11.31
43247		OPERATIVE UPPER GI ENDOSCOPY	4.38	5.04	0.40	9.80
43251		OPERATIVE UPPER GI ENDOSCOPY	4.56	5.83	0.44	10.63
43255		OPERATIVE UPPER GI ENDOSCOPY	4.73	5.99	0.40	11.11
43258		OPERATIVE UPPER GI ENDOSCOPY	4.99	5.64	0.40	11.03
43260		ENDOSCOPY, BILE DUCT/PANCREAS	5.18	6.29	0.41	11.88
43262		ENDOSCOPY, BILE DUCT/PANCREAS	7.46	9.48	0.82	17.56
43263		ENDOSCOPY, BILE DUCT/PANCREAS	6.70	5.42	0.36	12.48
43264		ENDOSCOPY, BILE DUCT/PANCREAS	7.15	9.10	0.63	16.88
43267		ENDOSCOPY, BILE DUCT/PANCREAS	6.91	7.57	0.49	14.97
43268		ENDOSCOPY, BILE DUCT/PANCREAS	7.66	9.14	0.60	17.40
43271		ENDOSCOPY, BILE DUCT/PANCREAS	7.35	7.73	0.51	15.59
43272	*	ENDOSCOPY, BILE DUCT/PANCREAS	7.24	6.97	0.51	14.72
43300		REPAIR OF ESOPHAGUS	9.28	5.87	0.66	15.81

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL (continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
43305	*	REPAIR ESOPHAGUS AND FISTULA	14.32	12.57	1.68	28.57
43310	*	REPAIR OF ESOPHAGUS	14.90	16.48	3.10	34.48
43312	*	REPAIR ESOPHAGUS AND FISTULA	14.71	21.10	3.49	39.30
43320	*	FUSE ESOPHAGUS & STOMACH	15.13	10.45	1.68	27.26
43321	*	FUSE ESOPHAGUS & STOMACH	15.70	13.40	2.63	31.73
43324	*	REVISE ESOPHAGUS & STOMACH	14.87	12.40	2.63	29.90
43325	*	REVISE ESOPHAGUS & STOMACH	15.54	11.48	2.23	29.25
43330	*	REPAIR OF ESOPHAGUS	15.16	7.95	1.15	24.26
43331	*	REPAIR OF ESOPHAGUS	15.64	14.25	2.65	32.54
43340	*	FUSE ESOPHAGUS & INTESTINE	15.05	10.16	1.92	27.13
43341	*	FUSE ESOPHAGUS & INTESTINE	16.21	18.59	2.59	35.39
43350	*	SURGICAL OPENING, ESOPHAGUS	11.95	5.61	0.67	18.23
43351	*	SURGICAL OPENING, ESOPHAGUS	14.25	7.43	1.18	22.86
43352	*	SURGICAL OPENING, ESOPHAGUS	11.60	8.57	1.42	21.59
43400	*	LIGATE ESOPHAGUS VEINS	16.52	10.23	1.49	28.24
43401	*	ESOPHAGUS SURGERY FOR VEINS	17.28	12.56	2.53	32.37
43410	*	REPAIR ESOPHAGUS WOUND	10.21	9.17	1.47	20.85
43415	*	REPAIR ESOPHAGUS WOUND	16.85	13.21	2.61	32.67
43420	*	REPAIR ESOPHAGUS OPENING	10.83	2.96	0.29	14.08
43425	*	REPAIR ESOPHAGUS OPENING	16.55	8.52	1.41	26.48
43450	*	DILATE ESOPHAGUS	1.15	0.72	0.05	1.92
43451	*	REDILATE ESOPHAGUS	1.02	0.61	0.05	1.68
43453	*	DILATE ESOPHAGUS	3.76	1.55	0.10	5.41
43455	*	DILATE ESOPHAGUS	5.15	2.07	0.14	7.36
43456	*	DILATE ESOPHAGUS	5.18	2.35	0.25	7.78
43460	*	PRESSURE TREATMENT ESOPHAGUS	5.39	1.70	0.15	7.24
43500	*	SURGICAL OPENING OF STOMACH	8.07	4.96	0.86	13.91
43501	*	SURGICAL REPAIR OF STOMACH	11.81	8.41	1.75	21.97
43510	*	SURGICAL OPENING OF STOMACH	9.84	8.01	0.91	18.76
43520	*	INCISION OF PYLORIC MUSCLE	7.43	4.08	0.78	12.27
43600	*	BIOPSY OF STOMACH	2.47	0.51	0.04	3.02
43605	*	BIOPSY OF STOMACH	6.74	5.86	1.26	15.86
43610	*	EXCISION OF STOMACH LESION	10.73	8.50	1.79	21.02
43620	*	REMOVAL OF STOMACH	22.34	15.82	3.26	41.42
43625	*	REMOVAL OF STOMACH	23.80	17.41	3.96	45.17
43630	*	PARTIAL REMOVAL OF STOMACH	15.76	12.65	2.71	31.12
43635	*	PARTIAL REMOVAL OF STOMACH	19.25	13.45	2.88	35.58
43636	*	PARTIAL REMOVAL OF STOMACH	19.01	12.99	2.78	34.78
43640	*	VAGOTOMY & PYLORUS REPAIR	15.37	10.83	2.30	28.50
43641	*	VAGOTOMY & PYLORUS REPAIR	17.15	10.82	2.23	30.00
43750	*	PLACE GASTROSTOMY TUBE	6.23	4.36	0.57	11.16
43760	*	CHANGE GASTROSTOMY TUBE	0.59	0.85	0.08	1.32
43800	*	RECONSTRUCTION OF PYLORUS	10.00	7.01	1.50	18.51
43810	*	FUSION OF STOMACH AND BOWEL	10.71	7.43	1.49	19.63
43820	*	FUSION OF STOMACH AND BOWEL	11.08	8.51	1.79	21.39
43825	*	FUSION OF STOMACH AND BOWEL	13.45	11.37	2.36	27.18
43830	*	SURGICAL OPENING OF STOMACH	6.68	6.71	1.21	14.60
43831	*	SURGICAL OPENING OF STOMACH	6.82	4.73	0.74	12.29
43832	*	SURGICAL OPENING OF STOMACH	11.34	8.05	1.40	20.79
43840	*	REPAIR OF STOMACH LESION	11.10	7.99	1.69	20.78
43844	*	GASTRIC BYPASS FOR OBESITY	18.82	3.89	1.00	23.71
43845	*	GASTRIC REVISION FOR OBESITY	18.99	13.55	2.68	33.42
43846	*	GASTRIC BYPASS FOR OBESITY	18.89	14.80	3.30	36.99
43850	*	REVISE STOMACH-BOWEL FUSION	15.14	11.56	2.23	28.95
43855	*	REVISE STOMACH-BOWEL FUSION	17.06	12.97	2.82	32.87
43860	*	REVISE STOMACH-BOWEL FUSION	17.12	11.80	2.58	31.50
43865	*	REVISE STOMACH-BOWEL FUSION	18.22	13.93	3.14	35.29

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL (continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
43870		REPAIR STOMACH OPENING	6.97	5.55	1.06	13.58
43880		REPAIR STOMACH-BOWEL FISTULA	15.11	6.94	1.39	23.44
43885		REVISE STOMACH PLACEMENT	10.52	7.84	1.66	20.02
44005		FREEDING OF BOWEL ADHESION	10.77	8.55	1.81	21.13
44010		INCISION OF SMALL BOWEL	11.89	6.95	1.43	20.27
44015		INSERT NEEDLE CATHETER, BOWEL	5.57	3.41	0.66	9.64
44020		EXPLORATION OF SMALL BOWEL	11.35	8.05	1.70	21.10
44021		DECOMPRESS SMALL BOWEL	10.83	7.00	1.46	19.29
44025		INCISION OF LARGE BOWEL	11.76	7.86	1.63	21.25
44040		EXTERIORIZATION OF BOWEL	12.92	10.05	2.17	25.14
44050		REDUCE BOWEL OBSTRUCTION	10.67	7.97	1.67	20.31
44055		CORRECT MALROTATION OF BOWEL	12.66	7.67	1.61	21.94
44110		EXCISION OF BOWEL LESION(S)	9.57	7.77	1.60	18.94
44111		EXCISION OF BOWEL LESION(S)	11.74	10.02	2.22	23.98
44120		REMOVAL OF SMALL INTESTINE	11.91	10.07	2.15	24.13
44125		REMOVAL OF SMALL INTESTINE	13.98	10.89	2.32	27.19
44130		BOWEL TO BOWEL FUSION	11.78	9.12	1.95	22.85
44140		PARTIAL REMOVAL OF COLON	13.29	12.14	2.57	28.00
44141		PARTIAL REMOVAL OF COLON	12.99	12.68	2.73	28.40
44143		PARTIAL REMOVAL OF COLON	15.64	13.11	2.81	31.56
44144		PARTIAL REMOVAL OF COLON	14.81	12.81	2.69	30.31
44145		PARTIAL REMOVAL OF COLON	17.25	14.37	3.03	34.65
44146		PARTIAL REMOVAL OF COLON	18.15	16.13	3.39	37.67
44147		PARTIAL REMOVAL OF COLON	17.83	16.21	3.49	37.53
44150		REMOVAL OF COLON	20.22	15.61	3.34	39.17
44151	*	REMOVAL OF COLON/ILEOSTOMY	19.08	17.46	3.78	40.32
44152	*	REMOVAL OF COLON/ILEOSTOMY	21.37	16.63	3.59	41.59
44153	*	REMOVAL OF COLON/ILEOSTOMY	26.23	16.61	3.50	46.34
44155		REMOVAL OF COLON	20.74	17.69	3.72	42.15
44156	*	REMOVAL OF COLON/ILEOSTOMY	21.75	18.81	4.13	44.69
44160		REMOVAL OF COLON	14.97	13.30	2.87	31.14
44300		OPEN BOWEL TO SKIN	8.26	6.25	1.34	15.85
44310		ILEOSTOMY	10.70	7.93	1.66	20.29
44312		REVISION OF ILEOSTOMY	5.67	2.58	0.38	8.63
44314		REVISION OF ILEOSTOMY	10.38	6.49	1.18	18.05
44316	*	DEVISE BOWEL POUCH	14.43	17.16	2.55	34.14
44320		COLOSTOMY	13.11	7.71	1.63	22.45
44322		COLOSTOMY WITH BIOPSIES	10.95	9.12	1.90	21.97
44345		REVISION OF COLOSTOMY	10.67	4.82	1.02	16.51
44346		REVISION OF COLOSTOMY	11.82	6.76	1.40	19.98
44360		SMALL BOWEL ENDOSCOPY	4.43	3.69	0.30	8.42
44361		SMALL BOWEL ENDOSCOPY, BIOPSY	4.90	4.95	0.34	10.19
44363	*	SMALL BOWEL ENDOSCOPY	5.66	4.05	0.43	10.14
44364	*	SMALL BOWEL ENDOSCOPY	5.76	3.56	0.57	9.89
44366		SMALL BOWEL ENDOSCOPY	6.26	6.18	0.46	12.90
44369		SMALL BOWEL ENDOSCOPY	6.09	7.24	0.50	13.83
44380		SMALL BOWEL ENDOSCOPY	2.46	2.27	0.20	4.93
44382		SMALL BOWEL ENDOSCOPY	3.07	3.16	0.27	6.50
44385		ENDOSCOPY OF BOWEL POUCH	2.75	2.63	0.32	5.90
44386	*	ENDOSCOPY, BOWEL POUCH, BIOPSY	3.01	2.53	0.23	5.77
44388		COLON ENDOSCOPY	3.30	3.90	0.54	7.74
44389		COLONOSCOPY WITH BIOPSY	3.43	4.50	0.47	8.40
44390	*	COLONOSCOPY FOR FOREIGN BODY	4.21	5.26	0.55	10.02
44391	*	COLONOSCOPY FOR BLEEDING	4.88	5.14	0.51	10.53
44392		COLONOSCOPY & POLYPECTOMY	4.46	5.49	0.70	10.65
44393		COLONOSCOPY, LESION REMOVAL	4.65	5.45	0.70	10.80
44600		REPAIR OF BOWEL LESION	10.32	7.78	1.65	19.75

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPs ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
44605		REPAIR OF BOWEL LESION	13.06	9.49	2.05	24.60
44610		REPAIR OF BOWEL LESIONS	13.74	9.22	1.98	24.94
44620		REPAIR BOWEL OPENING	10.25	6.25	1.32	17.82
44625		REPAIR BOWEL OPENING	11.27	10.03	2.13	23.43
44640		REPAIR BOWEL-SKIN FISTULA	14.18	5.86	1.20	21.24
44650		REPAIR BOWEL FISTULA	14.61	7.37	1.47	23.45
44660		REPAIR BOWEL-BLADDER FISTULA	13.97	7.82	1.09	22.88
44661		REPAIR BOWEL-BLADDER FISTULA	16.40	14.57	2.63	33.60
44680		SURGICAL REVISION, INTESTINE	13.18	10.03	2.21	25.42
44800		EXCISION OF BOWEL POUCH	10.74	5.13	1.05	16.92
44820		EXCISION OF MESENTERY LESION	9.88	5.09	1.09	16.06
44850		REPAIR OF MESENTERY	9.18	5.46	1.15	15.79
44900		DRAINAGE OF APPENDIX ABSCESS	8.35	4.37	0.89	13.61
44950		APPENDECTOMY	6.43	5.18	1.07	12.68
44955		APPENDECTOMY	3.93	2.46	0.50	6.89
44960		APPENDECTOMY	10.39	6.36	1.35	18.10
45000		DRAINAGE OF PELVIC ABSCESS	4.56	1.56	0.22	6.34
45005		DRAINAGE OF RECTAL ABSCESS	2.09	1.24	0.20	3.53
45020		DRAINAGE OF RECTAL ABSCESS	4.68	2.63	0.52	7.83
45100		BIOPSY OF RECTUM	3.59	1.59	0.25	5.43
45108		REMOVAL OF ANORECTAL LESION	4.56	4.73	0.97	10.26
45110		REMOVAL OF RECTUM	23.03	16.74	3.52	43.29
45111		PARTIAL REMOVAL OF RECTUM	15.91	11.46	2.42	29.79
45112		REMOVAL OF RECTUM	25.52	15.52	3.23	44.27
45114		PARTIAL REMOVAL OF RECTUM	22.52	13.31	2.92	38.75
45116		PARTIAL REMOVAL OF RECTUM	20.28	11.04	2.39	33.71
45120		REMOVAL OF RECTUM	16.64	13.18	2.30	32.12
45121		REMOVAL OF RECTUM AND COLON	18.09	18.26	3.40	39.75
45130		EXCISION OF RECTAL PROLAPSE	13.83	9.10	1.83	24.76
45135		EXCISION OF RECTAL PROLAPSE	16.30	16.03	3.58	35.91
45150		EXCISION OF RECTAL STRICTURE	5.58	2.92	0.55	9.05
45160		EXCISION OF RECTAL LESION	13.11	6.49	1.23	20.83
45170		EXCISION OF RECTAL LESION	8.31	4.53	0.93	13.77
45180		REMOVAL OF RECTAL LESION	8.22	5.10	1.05	14.37
45300		PROCTOSIGMOIDOSCOPY	0.87	0.57	0.08	1.50
45302		PROCTOSIGMOIDOSCOPY	1.21	0.77	0.11	2.09
45303		PROCTOSIGMOIDOSCOPY	1.67	0.76	0.11	2.56
45305		PROCTOSIGMOIDOSCOPY; BIOPSY	1.36	0.88	0.13	2.37
45307		PROCTOSIGMOIDOSCOPY	1.90	1.28	0.18	3.36
45310		PROCTOSIGMOIDOSCOPY	2.09	1.14	0.19	3.42
45315		PROCTOSIGMOIDOSCOPY	2.65	1.19	0.18	4.02
45317		PROCTOSIGMOIDOSCOPY	2.30	1.27	0.18	3.75
45320		PROCTOSIGMOIDOSCOPY	2.40	1.60	0.31	4.31
45321		PROCTOSIGMOIDOSCOPY	2.54	1.45	0.26	4.25
45330		SIGMOIDOSCOPY	1.10	1.37	0.11	2.58
45331		SIGMOIDOSCOPY AND BIOPSY	1.38	1.82	0.15	3.35
45332		SIGMOIDOSCOPY	2.39	1.74	0.15	4.28
45333		SIGMOIDOSCOPY & POLYPECTOMY	2.95	2.25	0.26	5.46
45334		SIGMOIDOSCOPY FOR BLEEDING	3.18	2.66	0.22	6.06
45336		SIGMOIDOSCOPY, LESION REMOVAL	3.43	3.30	0.31	7.04
45337		SIGMOIDOSCOPY, DECOMPRESSION	2.93	3.32	0.36	6.61
45355		SURGICAL COLONOSCOPY	3.35	1.22	0.12	4.69
45378		DIAGNOSTIC COLONOSCOPY	3.34	4.40	0.41	8.15
45379		COLONOSCOPY	4.11	5.71	0.49	10.31
45380		COLONOSCOPY AND BIOPSY	3.62	5.04	0.42	9.08
45382		COLONOSCOPY, CONTROL BLEEDING	5.29	6.16	0.43	11.90
45383		COLONOSCOPY, LESION REMOVAL	4.83	6.26	0.54	11.63

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
45385		COLONOSCOPY, LESION REMOVAL	4.51	7.06	0.62	12.19
45500		REPAIR OF RECTUM	7.00	4.50	0.77	12.27
45505		REPAIR OF RECTUM	5.87	6.46	1.27	13.60
45520		TREATMENT OF RECTAL PROLAPSE	1.67	0.62	0.10	2.39
45540		CORRECT RECTAL PROLAPSE	12.72	10.27	2.18	25.17
45541		CORRECT RECTAL PROLAPSE	10.40	10.54	2.11	23.05
45550		REPAIR RECTUM; REMOVE SIGMOID	14.21	9.22	1.81	25.24
45560		REPAIR OF RECTOCELE	7.94	4.82	0.98	13.74
45800		REPAIR RECTUM/BLADDER FISTULA	13.54	7.03	1.04	21.61
45805	*	REPAIR FISTULA; COLOSTOMY	16.02	12.37	2.41	30.80
45820	*	REPAIR RECTOURETHRAL FISTULA	14.15	9.97	1.37	25.49
45825	*	REPAIR FISTULA; COLOSTOMY	16.41	8.25	1.70	26.36
45900		REDUCTION OF RECTAL PROLAPSE	1.07	0.60	0.10	1.77
45905		DILATION OF ANAL SPHINCTER	0.84	0.61	0.10	1.55
45910		DILATION OF RECTAL NARROWING	1.97	0.78	0.11	2.86
45915		REMOVE RECTAL OBSTRUCTION	1.43	0.78	0.09	2.28
46000		INCISION OF ANAL FISTULA	1.56	1.22	0.18	2.96
46030	*	REMOVAL OF RECTAL MARKER	0.83	0.42	0.07	1.32
46040		INCISION OF RECTAL ABSCESS	5.20	1.67	0.32	7.19
46045		INCISION OF RECTAL ABSCESS	4.14	1.82	0.38	6.34
46050		INCISION OF ANAL ABSCESS	0.66	0.61	0.10	1.37
46060		INCISION OF RECTAL ABSCESS	5.35	5.47	1.14	11.96
46070	*	INCISION OF ANAL SEPTUM	2.80	0.86	0.20	3.86
46080		INCISION OF ANAL SPHINCTER	1.72	2.00	0.41	4.13
46083		INCISE EXTERNAL HEMORRHOID	1.43	0.66	0.06	2.17
46200		REMOVAL OF ANAL FISSURE	4.92	3.42	0.70	9.04
46210		REMOVAL OF ANAL CRYPT	3.32	0.73	0.12	4.17
46211	*	REMOVAL OF ANAL CRYPTS	4.32	1.80	0.36	6.48
46220		REMOVAL OF ANAL TAB	2.03	0.63	0.12	2.78
46221		LIGATION OF HEMORRHOID(S)	1.48	0.69	0.13	2.30
46230		REMOVAL OF ANAL TABS	3.73	0.83	0.11	4.67
46250		HEMORRHOIDECTOMY	4.57	2.69	0.50	7.76
46255		HEMORRHOIDECTOMY	5.25	4.03	0.73	10.01
46257		REMOVE HEMORRHOIDS & FISSURE	8.24	5.23	1.07	12.54
46258		REMOVE HEMORRHOIDS & FISTULA	6.64	5.92	1.23	13.79
46260		HEMORRHOIDECTOMY	7.11	6.22	1.30	14.63
46261		REMOVE HEMORRHOIDS & FISSURE	6.94	6.79	1.38	15.11
46262		REMOVE HEMORRHOIDS & FISTULA	7.20	6.71	1.36	15.29
46270		REMOVAL OF ANAL FISTULA	3.73	2.48	0.52	6.73
46275		REMOVAL OF ANAL FISTULA	4.62	5.67	1.17	11.46
46280		REMOVAL OF ANAL FISTULA	5.97	6.30	1.30	13.57
46285	*	REMOVAL OF ANAL FISTULA	4.11	2.17	0.41	6.69
46320		REMOVAL OF HEMORRHOID CLOT	1.08	0.72	0.10	1.90
46500		INJECTION INTO HEMORRHOIDS	1.06	0.33	0.06	1.45
46600		DIAGNOSTIC ANOSCOPY	0.87	0.28	0.03	1.18
46602		DIAGNOSTIC ANOSCOPY	1.05	0.42	0.03	1.50
46604		ANOSCOPY AND DILATION	1.13	0.37	0.06	1.56
46606		ANOSCOPY AND BIOPSY	1.06	0.33	0.05	1.44
46608		ANOSCOPY; REMOVE FOREIGN BODY	1.63	0.97	0.10	2.70
46610		ANOSCOPY; REMOVE LESION	1.54	0.85	0.14	2.53
46612	*	ANOSCOPY; REMOVE LESIONS	2.00	1.19	0.17	3.36
46614		ANOSCOPY; CONTROL BLEEDING	1.97	1.58	0.23	3.78
46700		REPAIR OF ANAL STRICTURE	6.81	6.37	1.29	14.47
46705	*	REPAIR OF ANAL STRICTURE	6.78	6.89	1.46	15.13
46715	*	REPAIR OF ANOVAGINAL FISTULA	8.16	2.22	0.36	10.78
46716	*	REPAIR OF ANOVAGINAL FISTULA	8.95	8.17	1.73	18.85
46730	*	CONSTRUCTION OF ABSENT ANUS	13.27	4.17	0.49	17.93

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPs ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
46735	*	CONSTRUCTION OF ABSENT ANUS	15.54	13.54	3.15	32.23
46740	*	CONSTRUCTION OF ABSENT ANUS	15.34	7.60	1.30	24.24
46750		REPAIR OF ANAL SPHINCTER	7.81	6.00	1.22	15.03
46751	*	REPAIR OF ANAL SPHINCTER	8.27	5.44	1.27	14.98
46753		RECONSTRUCTION OF ANUS	6.42	4.22	0.78	11.42
46754	*	REMOVAL OF SUTURE FROM ANUS	2.76	1.46	0.28	4.50
46760	*	REPAIR OF ANAL SPHINCTER	11.27	7.97	1.59	20.83
46761	*	REPAIR OF ANAL SPHINCTER	10.60	7.57	1.50	19.67
46762	*	IMPLANT ARTIFICIAL SPHINCTER	9.83	8.79	1.86	20.48
46900		DESTRUCTION, ANAL LESION(S)	1.37	0.40	0.05	1.82
46910		DESTRUCTION, ANAL LESION(S)	1.51	0.63	0.07	2.21
46916		CRYOSURGERY, ANAL LESION(S)	2.26	0.62	0.05	2.93
46917		LASER SURGERY, ANAL LESION(S)	2.43	1.83	0.28	4.54
46922		EXCISION OF ANAL LESION(S)	2.85	1.21	0.22	4.28
46924		DESTRUCTION, ANAL LESION(S)	4.13	2.07	0.37	6.57
46934		DESTRUCTION OF HEMORRHOIDS	4.08	1.21	0.16	5.45
46935		DESTRUCTION OF HEMORRHOIDS	2.55	1.52	0.20	4.27
46936		DESTRUCTION OF HEMORRHOIDS	4.44	2.21	0.23	6.88
46937	*	CRYOTHERAPY OF RECTAL LESION	2.83	2.26	0.39	5.48
46938	*	CRYOTHERAPY OF RECTAL LESION	4.70	3.53	0.74	8.97
46940		TREATMENT OF ANAL FISSURE	2.44	0.51	0.09	3.04
46942	*	TREATMENT OF ANAL FISSURE	2.46	0.38	0.06	2.90
46945		LIGATION OF HEMORRHOIDS	3.24	0.63	0.11	3.98
46946		LIGATION OF HEMORRHOIDS	2.48	0.90	0.17	3.55
47000		NEEDLE BIOPSY OF LIVER	2.02	1.42	0.13	3.57
47010		DRAINAGE OF LIVER LESION	12.26	6.06	0.99	19.31
47100		WEDGE BIOPSY OF LIVER	7.18	3.23	0.66	11.07
47120		PARTIAL REMOVAL OF LIVER	25.33	12.38	2.55	40.26
47122	*	EXTENSIVE REMOVAL OF LIVER	28.22	18.34	3.75	50.31
47125		PARTIAL REMOVAL OF LIVER	22.97	17.43	3.59	43.99
47130		PARTIAL REMOVAL OF LIVER	27.16	15.30	3.32	45.78
47135	*	TRANSPLANTATION OF LIVER	47.06	63.16	9.27	119.49
47300		SURGERY FOR LIVER LESION	9.31	7.51	1.53	18.35
47350		REPAIR LIVER WOUND	11.99	7.50	1.50	20.99
47355	*	REPAIR LIVER WOUND	12.95	5.50	0.93	19.38
47360	*	REPAIR LIVER WOUND	16.30	9.70	1.74	27.74
47400	*	INCISION OF LIVER DUCT	20.07	7.67	1.15	28.89
47420		INCISION OF BILE DUCT	14.04	9.81	2.07	25.92
47425		INCISION OF BILE DUCT	19.74	12.05	2.55	34.34
47440		INCISION OF BILE DUCT	18.44	10.77	2.25	32.46
47460		INCISE BILE DUCT SPHINCTER	15.30	16.50	1.91	33.71
47480		INCISION OF GALLBLADDER	10.65	7.30	1.52	19.47
47490		INCISION OF GALLBLADDER	6.01	3.43	0.35	11.79
47500		INJECTION FOR LIVER X-RAYS	2.39	1.40	0.13	3.92
47510		INSERT CATHETER, BILE DUCT	5.10	3.18	0.28	8.56
47525		CHANGE BILE DUCT CATHETER	2.22	1.44	0.14	3.80
47530		REVISE, REINSERT BILE TUBE	4.12	1.46	0.18	5.76
47550		BILE DUCT ENDOSCOPY	2.03	1.54	0.33	3.90
47552	*	BILIARY ENDOSCOPY, THRU SKIN	3.36	1.17	0.18	4.71
47553	*	BILIARY ENDOSCOPY, THRU SKIN	3.66	2.12	0.36	6.14
47554	*	BILIARY ENDOSCOPY, THRU SKIN	4.23	3.85	0.66	8.74
47555	*	BILIARY ENDOSCOPY, THRU SKIN	4.39	2.65	0.30	7.34
47600		REMOVAL OF GALLBLADDER	9.81	8.03	1.70	19.54
47605		REMOVAL OF GALLBLADDER	11.10	8.68	1.86	21.64
47610		REMOVAL OF GALLBLADDER	13.56	9.99	2.14	25.69
47612		REMOVAL OF GALLBLADDER	15.66	14.87	3.20	33.73
47620		REMOVAL OF GALLBLADDER	16.78	11.89	2.50	31.17

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
47630		REMOVE BILE DUCT STONE	7.70	3.53	0.38	11.61
47700		EXPLORATION OF BILE DUCTS	14.59	7.36	1.49	23.44
47701	*	BILE DUCT REVISION	16.68	5.38	1.25	23.31
47710	*	EXCISION OF BILE DUCT TUMOR	19.59	12.01	2.42	34.02
47715	*	EXCISION OF BILE DUCT CYST	15.40	9.78	2.03	27.21
47716	*	FUSION OF BILE DUCT CYST	13.32	9.33	2.17	24.82
47720		FUSE GALLBLADDER & BOWEL	12.63	9.47	2.01	24.11
47721		FUSE UPPER GI STRUCTURES	15.30	11.90	2.59	29.79
47740		FUSE GALLBLADDER & BOWEL	14.80	10.58	2.22	27.60
47760		FUSE BILE DUCTS AND BOWEL	17.18	12.08	2.63	31.87
47765		FUSE LIVER DUCTS & BOWEL	20.22	14.61	2.97	37.80
47780		FUSE BILE DUCTS AND BOWEL	17.83	13.70	2.86	34.39
47800	*	RECONSTRUCTION OF BILE DUCTS	18.82	11.74	2.10	32.66
47801		PLACEMENT, BILE DUCT SUPPORT	11.98	4.37	0.64	16.99
47802	*	FUSE LIVER DUCT & INTESTINE	17.00	11.70	2.32	31.02
48000		DRAINAGE OF ABDOMEN	12.79	7.11	1.41	21.31
48020	*	REMOVAL OF PANCREATIC STONE	13.78	6.60	1.31	21.69
48100		BIOPSY OF PANCREAS	10.83	3.87	0.72	15.42
48102		NEEDLE BIOPSY, PANCREAS	4.00	2.46	0.28	6.72
48120		REMOVAL OF PANCREAS LESION	13.59	7.30	1.60	22.49
48140		PARTIAL REMOVAL OF PANCREAS	17.32	13.36	2.82	33.50
48145	*	PARTIAL REMOVAL OF PANCREAS	20.28	14.96	3.29	38.53
48148	*	REMOVAL OF PANCREATIC DUCT	14.82	9.82	1.97	26.21
48150		PARTIAL REMOVAL OF PANCREAS	28.90	23.72	5.01	57.63
48151	*	PARTIAL REMOVAL OF PANCREAS	19.68	19.31	4.02	43.01
48155		REMOVAL OF PANCREAS	20.85	21.43	4.44	46.52
48180	*	FUSE PANCREAS AND BOWEL	18.95	12.80	2.67	34.42
48500	*	SURGERY OF PANCREAS CYST	12.79	8.66	1.73	23.38
48510		DRAIN PANCREATIC PSEUDOCYST	11.92	7.33	1.41	20.66
48520		FUSE PANCREAS CYST AND BOWEL	13.77	10.58	2.23	26.58
48540		FUSE PANCREAS CYST AND BOWEL	16.78	10.22	2.27	29.25
49000		EXPLORATION OF ABDOMEN	9.54	7.09	1.47	18.10
49002		REEXPLORATION OF ABDOMEN	9.99	8.21	1.25	17.45
49010		EXPLORATION BEHIND ABDOMEN	11.89	7.14	1.35	20.38
49020		DRAIN ABDOMINAL ABSCESS	10.88	4.83	0.91	16.62
49040		DRAIN ABDOMINAL ABSCESS	9.30	6.53	1.29	17.12
49060		DRAIN ABDOMINAL ABSCESS	11.21	5.18	0.94	17.33
49080		PUNCTURE, PERITONEAL CAVITY	0.98	0.89	0.08	1.95
49081		REMOVAL OF ABDOMINAL FLUID	1.76	0.75	0.07	2.58
49085		REMOVE ABDOMEN FOREIGN BODY	8.41	3.16	0.63	12.20
49180		BIOPSY, ABDOMINAL MASS	1.11	1.75	0.19	3.05
49200		REMOVAL OF ABDOMINAL LESION	9.78	8.68	1.77	20.21
49201		REMOVAL OF ABDOMINAL LESION	14.44	9.93	2.13	26.50
49215	*	EXCISE SACRAL SPINE TUMOR	12.37	8.65	1.60	22.62
49220		MULTIPLE SURGERY, ABDOMEN	14.51	12.88	2.64	30.03
49250		EXCISION OF UMBILICUS	7.89	4.47	0.96	13.32
49255		REMOVAL OF OMENTUM	10.94	5.42	1.14	17.50
49300		PERITONEOSCOPY	5.31	3.97	0.45	9.73
49301		PERITONEOSCOPY WITH BIOPSY	4.28	5.24	0.52	10.04
49302	*	PERITONEOSCOPY WITH X-RAY	3.98	4.95	0.49	9.42
49303	*	PERITONEOSCOPY, XRAY & BIOPSY	4.00	5.14	0.62	9.76
49400	*	AIR INJECTION INTO ABDOMEN	1.53	0.64	0.10	2.27
49401	*	AIR INJECTION INTO ABDOMEN	1.30	0.49	0.07	1.86
49420		INSERT ABDOMINAL DRAIN	1.79	1.56	0.19	3.54
49421		INSERT ABDOMINAL DRAIN	5.18	4.21	0.83	10.22
49425		INSERT ABDOMEN-VENOUS DRAIN	10.86	8.76	1.63	21.45
49426		REVISE ABDOMEN-VENOUS SHUNT	9.10	4.88	0.92	14.90

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL (continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
49500		REPAIR INGUINAL HERNIA	3.71	5.13	0.97	9.81
49505		REPAIR INGUINAL HERNIA	5.12	4.75	0.98	10.85
49510		REPAIR HERNIA, REMOVE TESTIS	6.97	5.44	1.09	13.50
49515		REPAIR INGUINAL HERNIA	6.24	5.53	1.10	12.87
49520		REPAIR INGUINAL HERNIA	7.03	5.51	1.16	13.70
49525		REPAIR INGUINAL HERNIA	6.55	5.83	1.23	13.61
49530		REPAIR INCARCERATED HERNIA	7.27	5.22	1.11	13.60
49535		REPAIR STRANGULATED HERNIA	10.23	5.94	1.27	17.44
49540		REPAIR LUMBAR HERNIA	8.41	5.42	1.16	14.99
49550		REPAIR FEMORAL HERNIA	4.68	4.75	0.99	10.42
49552		REPAIR FEMORAL HERNIA	6.72	6.43	1.35	14.50
49555		REPAIR FEMORAL HERNIA	7.75	6.35	1.31	15.41
49560		REPAIR ABDOMINAL HERNIA	8.11	5.92	1.24	15.27
49565		REPAIR ABDOMINAL HERNIA	8.88	6.73	1.43	17.02
49570		REPAIR EPIGASTRIC HERNIA	4.74	4.53	0.94	10.21
49575		REPAIR EPIGASTRIC HERNIA	6.82	5.94	1.24	14.00
49580		REPAIR UMBILICAL HERNIA	4.29	4.76	0.97	10.02
49581		REPAIR UMBILICAL HERNIA	5.25	4.59	0.95	10.79
49590		REPAIR ABDOMINAL HERNIA	6.98	5.93	1.29	14.18
49600	*	REPAIR UMBILICAL LESION	7.52	3.34	0.34	11.20
49605	*	REPAIR UMBILICAL LESION	11.45	8.95	1.89	22.29
49608	*	REPAIR UMBILICAL LESION	10.89	7.79	0.90	19.38
49610	*	REPAIR UMBILICAL LESION	10.44	5.92	1.37	17.73
49611	*	REPAIR UMBILICAL LESION	8.78	7.77	0.53	17.08
50010		EXPLORATION OF KIDNEY	15.31	9.79	1.18	26.26
50020		DRAINAGE OF KIDNEY ABSCESS	13.18	6.54	0.79	20.51
50040		DRAINAGE OF KIDNEY	14.65	6.77	0.81	22.03
50045	*	EXPLORATION OF KIDNEY	15.37	9.82	0.89	26.06
50060		REMOVAL OF KIDNEY STONE	19.12	8.62	0.90	28.64
50085	*	INCISION OF KIDNEY	20.84	13.56	1.33	35.73
50070	*	INCISION OF KIDNEY	20.33	7.34	0.70	28.37
50075	*	REMOVAL OF KIDNEY STONE	25.55	17.11	1.65	44.31
50080	*	REMOVAL OF KIDNEY STONE	14.86	12.72	1.20	28.78
50081	*	REMOVAL OF KIDNEY STONE	21.88	15.88	1.54	39.28
50100	*	REVISE KIDNEY BLOOD VESSELS	17.56	3.00	0.32	20.88
50120	*	EXPLORATION OF KIDNEY	15.94	9.63	1.05	26.62
50125	*	EXPLORE AND DRAIN KIDNEY	17.17	10.26	1.08	28.51
50130	*	REMOVAL OF KIDNEY STONE	17.96	12.69	1.24	31.89
50135	*	EXPLORATION OF KIDNEY	21.39	17.80	1.70	40.89
50200		BIOPSY OF KIDNEY	2.66	2.80	0.21	5.47
50205		BIOPSY OF KIDNEY	13.48	5.71	0.70	19.89
50220		REMOVAL OF KIDNEY	16.98	13.89	1.50	32.37
50225		REMOVAL OF KIDNEY	20.11	17.18	1.74	39.01
50230		REMOVAL OF KIDNEY	21.84	19.15	1.90	42.89
50234		REMOVAL OF KIDNEY & URETER	22.42	18.99	1.69	41.10
50236		REMOVAL OF KIDNEY & URETER	24.78	18.37	1.78	44.93
50240		PARTIAL REMOVAL OF KIDNEY	21.51	13.21	1.54	36.26
50280		REMOVAL OF KIDNEY LESION	15.54	10.98	1.18	27.70
50290	*	REMOVAL OF KIDNEY LESION	14.54	9.10	1.07	24.71
50300	*	REMOVAL OF DONOR KIDNEY	10.83	16.11	1.88	28.82
50320	*	REMOVAL OF DONOR KIDNEY	13.94	16.48	2.22	32.62
50340	*	REMOVAL OF KIDNEY	11.39	8.29	1.68	21.36
50360	*	TRANSPLANTATION OF KIDNEY	31.90	25.12	4.41	61.43
50365	*	TRANSPLANTATION OF KIDNEY	31.37	33.24	4.05	68.66
50370	*	REMOVE TRANSPLANTED KIDNEY	11.80	11.45	1.99	25.24
50380	*	REIMPLANTATION OF KIDNEY	17.51	17.13	2.39	37.03
50390	*	DRAINAGE OF KIDNEY LESION	2.69	1.66	0.15	4.50

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
50392		INSERT KIDNEY DRAIN	5.21	1.95	0.17	7.33
50393		INSERT URETERAL TUBE	4.83	2.50	0.22	7.55
50394		INJECTION FOR KIDNEY X-RAY	2.18	0.50	0.04	2.72
50395		CREATE PASSAGE TO KIDNEY	5.45	3.25	0.28	9.01
50396	*	MEASURE KIDNEY PRESSURE	2.22	1.03	0.10	3.35
50398		CHANGE KIDNEY TUBE	1.03	0.51	0.05	1.59
50400		REVISION OF KIDNEY/URETER	19.19	13.83	1.39	34.41
50405		REVISION OF KIDNEY/URETER	23.85	17.98	1.81	43.64
50500	*	REPAIR OF KIDNEY WOUND	19.41	9.87	1.17	30.45
50520	*	CLOSE KIDNEY-SKIN FISTULA	16.93	9.00	1.03	26.96
50525	*	REPAIR RENAL-ABDOMEN FISTULA	21.87	8.67	1.37	31.91
50540	*	REVISION OF HORSESHOE KIDNEY	20.33	8.15	0.76	29.24
50551		KIDNEY ENDOSCOPY	5.94	1.86	0.17	7.97
50553		KIDNEY ENDOSCOPY	6.37	1.42	0.13	7.92
50555	*	KIDNEY ENDOSCOPY & BIOPSY	6.93	3.00	0.29	10.22
50557	*	KIDNEY ENDOSCOPY & TREATMENT	7.03	3.00	0.31	10.34
50559	*	RENAL ENDOSCOPY; RADIOTRACER	7.21	1.39	0.13	8.73
50561		KIDNEY ENDOSCOPY & TREATMENT	8.06	3.86	0.37	12.29
50570	*	KIDNEY ENDOSCOPY	10.14	1.27	0.12	11.53
50572	*	KIDNEY ENDOSCOPY	11.00	1.77	0.17	12.94
50574	*	KIDNEY ENDOSCOPY & BIOPSY	11.70	2.71	0.24	14.65
50576	*	KIDNEY ENDOSCOPY & TREATMENT	11.67	1.13	0.10	12.90
50580	*	KIDNEY ENDOSCOPY & TREATMENT	12.60	3.17	0.30	16.07
50590		FRAGMENTING OF KIDNEY STONE	10.22	10.66	1.02	21.90
50600		EXPLORATION OF URETER	15.70	8.36	0.85	24.91
50605		INSERT URETERAL SUPPORT	15.29	4.88	0.52	20.69
50610		REMOVAL OF URETER STONE	15.79	12.05	1.20	29.04
50620		REMOVAL OF URETER STONE	15.07	11.77	1.18	28.02
50630		REMOVAL OF URETER STONE	14.83	13.27	1.30	29.40
50650		REMOVAL OF URETER	17.39	12.31	1.24	30.94
50660	*	REMOVAL OF URETER	19.60	15.56	1.91	37.07
50684		INJECTION FOR URETER X-RAY	1.85	0.50	0.05	2.40
50686		MEASURE URETER PRESSURE	1.86	0.37	0.03	2.26
50688		CHANGE OF URETER TUBE	0.73	0.36	0.03	1.12
50690		INJECTION FOR URETER X-RAY	1.23	0.33	0.03	1.59
50700		REVISION OF URETER	17.40	10.35	1.08	28.83
50715		RELEASE OF URETER	19.92	11.56	1.52	33.00
50722	*	RELEASE OF URETER	18.98	5.53	1.08	25.57
50725	*	RELEASE/REVISE URETER	20.88	6.59	0.76	28.23
50740	*	FUSION OF URETER & KIDNEY	20.17	12.95	1.77	34.89
50750	*	FUSION OF URETER & KIDNEY	20.81	14.73	1.33	36.87
50760		FUSION OF URETERS	20.81	13.76	1.52	36.09
50770		SPlicing OF URETERS	23.02	13.45	1.45	37.92
50780		REIMPLANT URETER IN BLADDER	19.10	13.90	1.48	34.48
50785		REIMPLANT URETER IN BLADDER	22.36	15.84	1.85	40.05
50800	*	IMPLANT URETER IN BOWEL	17.27	14.90	1.54	33.71
50810	*	FUSION OF URETER & BOWEL	22.87	12.63	1.60	37.30
50815	*	URINE SHUNT TO BOWEL	23.50	19.48	2.78	45.76
50820		CONSTRUCT BOWEL BLADDER	24.38	18.00	2.51	45.89
50825	*	CONSTRUCT BOWEL BLADDER	32.14	26.07	2.73	60.94
50830	*	REVISE URINE FLOW	31.11	18.51	2.01	51.63
50840	*	REPLACE URETER BY BOWEL	22.83	21.12	2.20	46.15
50860		TRANSPLANT URETER TO SKIN	14.87	11.02	1.17	27.06
50900	*	REPAIR OF URETER	13.37	9.84	1.14	24.35
50920	*	CLOSURE URETER/SKIN FISTULA	14.05	11.43	1.06	26.54
50930	*	CLOSURE URETER/BOWEL FISTULA	18.71	6.10	0.60	25.41
50940	*	RELEASE OF URETER	14.30	6.62	0.68	21.60

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL (continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
50951		ENDOSCOPY OF URETER	6.19	1.56	0.16	7.91
50953		ENDOSCOPY OF URETER	6.62	1.42	0.13	8.17
50955	*	URETER ENDOSCOPY & BIOPSY	7.18	2.13	0.21	9.52
50957	*	URETER ENDOSCOPY & TREATMENT	7.22	2.28	0.23	9.73
50959	*	URETER ENDOSCOPY & TRACER	4.68	1.88	0.18	6.72
50961		URETER ENDOSCOPY & TREATMENT	6.43	2.57	0.26	9.26
50970	*	URETER ENDOSCOPY	7.59	1.12	0.11	8.82
50972	*	URETER ENDOSCOPY & CATHETER	7.32	1.69	0.17	9.18
50974	*	URETER ENDOSCOPY & BIOPSY	9.74	3.04	0.29	13.07
50976	*	URETER ENDOSCOPY & TREATMENT	9.60	1.30	0.20	11.10
50978	*	URETER ENDOSCOPY & TRACER	5.43	2.20	0.26	7.89
50980		URETER ENDOSCOPY & TREATMENT	7.28	2.00	0.19	9.47
51000		DRAINAGE OF BLADDER	0.54	0.41	0.04	0.99
51005		DRAINAGE OF BLADDER	0.73	0.48	0.04	1.25
51010		DRAINAGE OF BLADDER	2.70	0.94	0.10	3.74
51020		INCISE & TREAT BLADDER	9.12	6.08	0.61	15.81
51030	*	INCISE & TREAT BLADDER	8.84	5.28	0.45	14.57
51040		INCISE & DRAIN BLADDER	4.33	7.52	0.77	12.62
51045		INCISE BLADDER, DRAIN URETER	8.58	4.40	0.45	13.43
51050		REMOVAL OF BLADDER STONE	9.57	7.28	0.72	17.57
51080	*	REMOVAL OF URETER STONE	12.40	10.49	1.02	23.91
51085		REMOVAL OF URETER STONE	10.88	6.19	0.65	17.82
51080		DRAINAGE OF BLADDER ABSCESS	8.85	4.49	0.49	13.83
51500	*	REMOVAL OF BLADDER CYST	10.14	5.72	1.01	16.87
51520		REMOVAL OF BLADDER LESION	9.23	8.40	0.87	18.50
51525		REMOVAL OF BLADDER LESION	13.57	10.57	1.04	25.18
51530		REMOVAL OF BLADDER LESION	12.03	7.47	0.71	20.21
51535	*	REPAIR OF URETER LESION	12.23	7.57	1.13	20.93
51550		PARTIAL REMOVAL OF BLADDER	15.23	10.88	1.19	27.28
51555		PARTIAL REMOVAL OF BLADDER	20.82	12.57	1.34	34.73
51585		REVISE BLADDER & URETER(S)	21.28	11.51	1.56	34.33
51570		REMOVAL OF BLADDER	23.55	15.00	1.58	40.13
51575		REMOVAL OF BLADDER & NODES	29.67	23.18	2.32	55.17
51580	*	REMOVE BLADDER; REVISE TRACT	33.17	7.43	1.18	41.78
51585	*	REMOVAL OF BLADDER & NODES	37.58	25.37	2.44	65.39
51590		REMOVE BLADDER; REVISE TRACT	36.45	18.29	2.17	56.91
51595		REMOVE BLADDER; REVISE TRACT	32.89	35.63	3.51	72.03
51596		REMOVE BLADDER, CREATE POUCH	47.88	28.50	3.31	79.69
51597		REMOVAL OF PELVIC STRUCTURES	41.37	31.23	4.43	77.03
51600		INJECTION FOR BLADDER X-RAY	0.83	0.27	0.03	0.93
51605		PREPARATION FOR BLADDER XRAY	1.18	0.30	0.03	1.52
51610		INJECTION FOR BLADDER X-RAY	1.89	0.31	0.03	2.03
51700		IRRIGATION OF BLADDER	0.63	0.22	0.02	0.87
51705		CHANGE OF BLADDER TUBE	0.60	0.39	0.04	1.03
51710		CHANGE OF BLADDER TUBE	1.03	0.58	0.05	1.64
51720		TREATMENT OF BLADDER LESION	2.09	0.46	0.04	2.59
51725		SIMPLE CYSTOMETROGRAM	2.01	0.63	0.06	2.70
51726		COMPLEX CYSTOMETROGRAM	1.82	0.89	0.09	2.80
51736		URINE FLOW MEASUREMENT	0.89	0.28	0.03	1.18
51739		SOUND RECORD OF URINE STREAM	0.97	0.27	0.03	1.27
51741		ELECTRO-UROFLOWMETRY, FIRST	1.87	0.41	0.04	2.12
51772		URETHRA PRESSURE PROFILE	1.71	0.80	0.06	2.37
51785		ANAL/URINARY MUSCLE STUDY	1.84	0.64	0.06	2.34
51792		URINARY REFLEX STUDY	1.18	0.88	0.07	1.91
51795	26	URINE VOIDING PRESSURE STUDY	1.83	0.57	0.06	2.26
51795	TC	URINE VOIDING PRESSURE STUDY	0.00	0.29	0.03	0.32
51797	26	INTRAABDOMINAL PRESSURE TEST	1.70	0.48	0.05	2.23

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
51797	TC	INTRAABDOMINAL PRESSURE TEST	0.00	0.23	0.02	0.25
51800		REVISION OF BLADDER/URETHRA	17.33	12.35	1.51	31.19
51820	*	REVISION OF URINARY TRACT	17.71	5.94	0.99	24.64
51840		ATTACH BLADDER/URETHRA	10.39	9.48	1.31	21.18
51841		ATTACH BLADDER/URETHRA	14.42	11.49	1.56	27.47
51845		REPAIR BLADDER NECK	8.68	11.29	1.14	21.11
51860		REPAIR OF BLADDER WOUND	11.87	7.62	0.92	20.41
51865		REPAIR OF BLADDER WOUND	14.87	11.16	1.30	27.33
51880		REPAIR OF BLADDER OPENING	7.66	3.66	0.38	11.70
51900	*	REPAIR BLADDER/VAGINA LESION	19.37	10.81	1.28	31.46
51920	*	CLOSE BLADDER-UTERUS FISTULA	18.05	2.22	0.21	18.48
51925	*	HYSTERECTOMY/BLADDER REPAIR	22.18	19.84	4.59	46.61
51940	*	CORRECTION OF BLADDER DEFECT	31.25	0.18	0.01	31.44
51960	*	REVISION OF BLADDER & BOWEL	27.65	22.42	2.39	52.46
51980	*	CONSTRUCT BLADDER OPENING	11.09	10.28	1.03	22.40
52000		CYSTOSCOPY	1.82	1.40	0.14	3.36
52005		CYSTOSCOPY & URETER CATHETER	2.52	2.33	0.23	5.08
52007		CYSTOSCOPY AND BIOPSY	4.42	2.93	0.29	7.64
52010		CYSTOSCOPY & DUCT CATHETER	3.76	1.50	0.18	5.74
52204		CYSTOSCOPY	3.21	2.51	0.25	5.97
52214		CYSTOSCOPY AND TREATMENT	4.92	2.76	0.27	7.95
52224		CYSTOSCOPY AND TREATMENT	4.37	3.01	0.29	7.67
52234		CYSTOSCOPY AND TREATMENT	6.13	4.65	0.45	11.23
52235		CYSTOSCOPY AND TREATMENT	7.81	6.76	0.85	17.42
52240		CYSTOSCOPY AND TREATMENT	10.55	11.06	1.08	22.69
52250		CYSTOSCOPY & RADIOTRACER	5.92	2.86	0.29	9.07
52260		CYSTOSCOPY & TREATMENT	5.10	2.25	0.23	7.58
52265		CYSTOSCOPY & TREATMENT	3.30	0.61	0.09	4.00
52270		CYSTOSCOPY & REVISE URETHRA	5.02	3.43	0.35	8.80
52275		CYSTOSCOPY & REVISE URETHRA	5.90	3.30	0.32	9.52
52276		OPTICAL INTERNAL URETHROTOMY	5.18	4.82	0.47	10.47
52277		CYSTOSCOPY AND TREATMENT	8.59	4.79	0.47	13.84
52281		CYSTOSCOPY AND TREATMENT	3.62	2.43	0.24	6.29
52283		CYSTOSCOPY AND TREATMENT	5.05	1.53	0.15	6.78
52285		CYSTOSCOPY AND TREATMENT	4.71	3.00	0.30	8.01
52290		CYSTOSCOPY AND TREATMENT	5.84	2.38	0.24	8.46
52300		CYSTOSCOPY AND TREATMENT	6.65	3.51	0.35	10.71
52305		CYSTOSCOPY AND TREATMENT	7.06	3.26	0.31	10.63
52310		CYSTOSCOPY AND TREATMENT	3.70	3.09	0.30	7.09
52315		CYSTOSCOPY AND TREATMENT	6.71	4.20	0.41	11.32
52317		REMOVE BLADDER STONE	8.99	6.13	0.59	15.71
52318		REMOVE BLADDER STONE	12.14	8.12	0.79	21.05
52320		CYSTOSCOPY AND TREATMENT	6.98	5.13	0.50	12.61
52325		CYSTOSCOPY, STONE REMOVAL	6.78	6.86	0.67	16.33
52330		CYSTOSCOPY AND TREATMENT	7.21	3.65	0.36	11.22
52332		CYSTOSCOPY AND TREATMENT	4.19	3.33	0.32	7.84
52334		CREATE PASSAGE TO KIDNEY	7.49	3.12	0.32	10.93
52335		ENDOSCOPY OF URINARY TRACT	7.71	4.70	0.46	12.87
52336		CYSTOSCOPY, STONE REMOVAL	10.18	10.68	1.04	21.88
52337		CYSTOSCOPY, STONE REMOVAL	9.64	11.39	1.11	22.14
52338		CYSTOSCOPY AND TREATMENT	9.52	6.09	0.60	16.21
52340		CYSTOSCOPY AND TREATMENT	8.25	5.08	0.50	13.83
52500		REVISION OF BLADDER NECK	8.30	7.83	0.76	16.89
52601		PROSTATECTOMY (TUR)	12.23	12.65	1.23	26.11
52606		CONTROL POSTOP BLEEDING	7.97	3.33	0.33	11.63
52612		PROSTATECTOMY, FIRST STAGE	12.50	6.20	0.82	19.52
52614		PROSTATECTOMY, SECOND STAGE	11.15	7.45	0.72	19.32

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPDS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
52620		REMOVE RESIDUAL PROSTATE	9.46	5.36	0.52	15.34
52630		REMOVE PROSTATE REGROWTH	9.97	12.43	1.21	23.61
52640		RELIEVE BLADDER CONTRACTURE	8.78	6.85	0.66	16.29
52650	*	PROSTATECTOMY	11.23	5.98	0.72	17.93
52700		DRAINAGE OF PROSTATE ABSCESS	6.71	1.97	0.17	8.85
53000		INCISION OF URETHRA	5.61	1.52	0.14	7.27
53010		INCISION OF URETHRA	8.21	3.32	0.33	11.86
53020		INCISION OF URETHRA	1.87	0.78	0.08	2.73
53025	*	INCISION OF URETHRA	1.20	0.48	0.05	1.73
53040		DRAINAGE OF URETHRA ABSCESS	6.39	1.90	0.19	8.48
53060	*	DRAINAGE OF URETHRA ABSCESS	2.74	0.54	0.07	3.35
53080	*	DRAINAGE OF URINARY LEAKAGE	6.24	2.46	0.26	8.96
53085	*	DRAINAGE OF URINARY LEAKAGE	10.27	8.97	0.93	20.17
53200		BIOPSY OF URETHRA	3.07	1.11	0.12	4.30
53210		REMOVAL OF URETHRA	12.44	5.70	0.58	18.72
53215		REMOVAL OF URETHRA	15.49	9.81	0.94	26.24
53220		TREATMENT OF URETHRA LESION	6.99	4.64	0.48	12.11
53230		REMOVAL OF URETHRA LESION	9.60	7.88	0.77	18.05
53235		REMOVAL OF URETHRA LESION	10.20	3.90	0.48	14.56
53240	*	SURGERY FOR URETHRA POUCH	6.41	3.23	0.32	9.96
53250	*	REMOVAL OF URETHRA GLAND	6.04	1.42	0.11	7.57
53260		TREATMENT OF URETHRA LESION	3.11	1.08	0.15	4.34
53265		TREATMENT OF URETHRA LESION	3.25	1.57	0.18	5.00
53270		REMOVAL OF URETHRA GLAND	3.11	0.80	0.18	4.09
53275		REPAIR OF URETHRA DEFECT	4.84	2.37	0.24	7.25
53400		REVISE URETHRA, 1ST STAGE	10.49	7.43	0.75	18.67
53405	*	REVISE URETHRA, 2ND STAGE	12.06	7.24	0.73	20.03
53410		RECONSTRUCTION OF URETHRA	13.12	6.40	0.82	22.34
53415	*	RECONSTRUCTION OF URETHRA	16.38	11.62	1.14	29.14
53420		RECONSTRUCT URETHRA, STAGE 1	11.37	5.50	0.44	17.31
53425	*	RECONSTRUCT URETHRA, STAGE 2	13.57	13.39	1.28	28.24
53430		RECONSTRUCTION OF URETHRA	13.75	6.33	0.71	20.79
53440		CORRECT BLADDER FUNCTION	12.21	13.40	1.43	27.04
53442	*	REMOVE PERINEAL PROSTHESES	8.15	4.55	0.65	13.35
53443	*	RECONSTRUCTION OF URETHRA	17.48	11.16	1.33	29.97
53445		CORRECT URINE FLOW CONTROL	13.98	21.05	2.09	37.12
53447		REMOVE ARTIFICIAL SPHINCTER	13.14	9.15	0.89	23.18
53449	*	CORRECT ARTIFICIAL SPHINCTER	9.73	8.58	0.83	19.14
53450		REVISION OF URETHRA	6.08	2.82	0.28	9.18
53460		REVISION OF URETHRA	7.11	2.50	0.25	9.86
53502	*	REPAIR OF URETHRA INJURY	7.66	2.20	0.26	10.12
53505	*	REPAIR OF URETHRA INJURY	7.66	4.81	0.51	12.98
53510	*	REPAIR OF URETHRA INJURY	10.17	6.95	0.71	17.83
53515	*	REPAIR OF URETHRA INJURY	13.50	8.25	0.79	22.54
53520	*	REPAIR OF URETHRA DEFECT	8.72	2.92	0.29	11.93
53600		DILATE URETHRA STRICTURE	0.87	0.33	0.03	1.23
53601		DILATE URETHRA STRICTURE	0.68	0.29	0.03	0.98
53605		DILATE URETHRA STRICTURE	0.91	0.45	0.04	1.40
53620		DILATE URETHRA STRICTURE	1.20	0.49	0.05	1.74
53621		DILATE URETHRA STRICTURE	0.98	0.36	0.03	1.35
53640		RELIEVE BLADDER RETENTION	1.16	0.59	0.06	1.81
53660		DILATION OF URETHRA	0.43	0.28	0.03	0.74
53661		DILATION OF URETHRA	0.44	0.25	0.03	0.72
53665		DILATION OF URETHRA	0.47	0.35	0.04	0.86
53670		INSERT URINARY CATHETER	0.34	0.22	0.02	0.58
53675		INSERT URINARY CATHETER	1.21	0.48	0.04	1.73
54000	*	SLITTING OF PREPUCE	1.58	0.65	0.07	2.30

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
54001		SLITTING OF PREPUCE	2.27	0.87	0.09	3.23
54015	*	DRAIN PENIS LESION	5.49	0.82	0.08	6.39
54050		DESTRUCTION, PENIS LESION(S)	0.74	0.35	0.03	1.12
54055		DESTRUCTION, PENIS LESION(S)	0.96	0.59	0.06	1.61
54056		CRYOSURGERY, PENIS LESION(S)	1.04	0.51	0.04	1.59
54057		LASER SURG, PENIS LESION(S)	4.31	1.73	0.18	6.22
54060		EXCISION OF PENIS LESION(S)	2.43	1.15	0.11	3.69
54065		DESTRUCTION, PENIS LESION(S)	2.58	2.16	0.21	4.95
54100		BIOPSY OF PENIS	2.41	0.64	0.06	3.11
54105		BIOPSY OF PENIS	4.43	0.99	0.10	5.52
54110	*	TREATMENT OF PENIS LESION	10.26	5.18	0.53	15.97
54111	*	TREAT PENIS LESION, GRAFT	13.83	7.34	0.79	21.96
54112	*	TREAT PENIS LESION, GRAFT	16.08	13.19	1.40	30.67
54115	*	TREATMENT OF PENIS LESION	6.03	3.58	0.37	9.98
54120		PARTIAL REMOVAL OF PENIS	9.81	6.67	0.64	17.12
54125		REMOVAL OF PENIS	13.60	11.52	1.17	26.29
54130	*	REMOVE PENIS & NODES	20.10	17.58	1.58	39.26
54135	*	REMOVE PENIS & NODES	26.57	20.97	2.05	49.59
54150		CIRCUMCISION	1.88	0.55	0.05	2.48
54152		CIRCUMCISION	2.41	1.73	0.19	4.33
54160	*	CIRCUMCISION	2.58	1.43	0.19	4.20
54161		CIRCUMCISION	3.41	2.23	0.23	5.87
54200		TREATMENT OF PENIS LESION	0.59	0.32	0.03	0.94
54205	*	TREATMENT OF PENIS LESION	7.65	3.75	0.37	11.77
54220		TREATMENT OF PENIS LESION	3.36	1.37	0.14	4.89
54230		PREPARE PENIS STUDY	1.58	0.63	0.06	2.27
54235		PENILE INJECTION	1.27	0.43	0.04	1.74
54240		PENIS PRESSURE STUDY	2.32	0.69	0.07	3.08
54250		TEST PENILE ERECTION/RIGID	2.35	0.57	0.05	2.97
54300	*	REVISION OF PENIS	10.67	2.24	0.26	13.19
54304	*	REVISION OF PENIS	12.88	9.66	0.97	23.51
54308	*	RECONSTRUCTION OF URETHRA	9.41	1.38	0.14	10.93
54312	*	RECONSTRUCTION OF URETHRA	13.99	6.31	0.62	20.92
54316	*	RECONSTRUCTION OF URETHRA	16.97	8.90	0.87	26.74
54318	*	RECONSTRUCTION OF URETHRA	11.13	16.25	2.37	29.75
54322	*	RECONSTRUCTION OF URETHRA	11.37	9.73	0.95	22.05
54324	*	RECONSTRUCTION OF URETHRA	16.43	10.49	1.03	27.95
54326	*	RECONSTRUCTION OF URETHRA	15.73	14.98	1.46	32.17
54328	*	REVISE PENIS, URETHRA	15.72	14.57	1.69	31.98
54332	*	REVISE PENIS, URETHRA	17.17	17.62	1.51	36.50
54336	*	REVISE PENIS, URETHRA	16.79	1.46	0.11	18.36
54340	*	SECONDARY URETHRAL SURGERY	9.08	2.58	0.25	11.91
54344	*	SECONDARY URETHRAL SURGERY	16.17	7.64	0.50	24.31
54346	*	SECONDARY URETHRAL SURGERY	17.39	16.92	1.65	35.96
54352	*	RECONSTRUCT URETHRA, PENIS	25.34	17.79	1.66	44.79
54360	*	PENIS PLASTIC SURGERY	9.64	6.82	0.71	17.17
54360	*	REPAIR PENIS	13.37	7.23	0.59	21.19
54365	*	REPAIR PENIS	15.66	6.60	0.74	25.00
54400		INSERT SEMI-RIGID PROSTHESIS	9.12	13.76	1.34	24.22
54402		REMOVE PENIS PROSTHESIS	9.21	5.64	0.56	15.41
54405		INSERT MULTI-COMP PROSTHESIS	13.42	22.35	2.17	37.94
54407		REMOVE MULTI-COMP PROSTHESIS	13.40	11.21	1.10	25.71
54409		REVISE PENIS PROSTHESIS	12.25	7.72	0.79	20.73
54420	*	REVISION OF PENIS	11.42	10.24	1.10	22.76
54430	*	REVISION OF PENIS	10.16	10.40	1.03	21.59
54435	*	REVISION OF PENIS	5.97	5.21	0.49	11.67
54440	*	REPAIR OF PENIS	13.81	6.67	0.66	21.16

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL (continued)

HCPs ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
54450		PREPUTIAL STRETCHING	1.43	0.70	0.07	2.20
54500	*	BIOPSY OF TESTIS	1.59	0.44	0.05	2.08
54505		BIOPSY OF TESTIS	4.37	1.86	0.22	6.45
54510		REMOVAL OF TESTIS LESION	5.57	2.87	0.35	8.79
54520		REMOVAL OF TESTIS	5.23	5.51	0.55	11.29
54530		REMOVAL OF TESTIS	8.55	7.16	0.75	16.46
54535	*	EXTENSIVE TESTIS SURGERY	12.14	8.79	1.04	21.97
54550		EXPLORATION FOR TESTIS	7.82	4.68	0.54	13.04
54560	*	EXPLORATION FOR TESTIS	11.12	9.73	1.09	21.94
54600	*	REDUCE TESTIS TORSION	7.00	3.97	0.47	11.44
54620	*	SUSPENSION OF TESTIS	4.97	2.30	0.23	7.50
54640		SUSPENSION OF TESTIS	6.96	7.74	0.90	15.60
54660	*	REVISION OF TESTIS	5.09	2.15	0.18	7.42
54670	*	REPAIR TESTIS INJURY	7.81	0.75	0.06	8.62
54680	*	RELOCATION OF TESTIS(ES)	12.25	12.04	1.18	25.47
54700		DRAINAGE OF SCROTUM	3.59	0.90	0.10	4.59
54800	*	BIOPSY OF EPIDIDYMIS	2.23	0.34	0.03	2.60
54820	*	EXPLORATION OF EPIDIDYMIS	5.94	2.48	0.26	8.68
54830		REMOVE EPIDIDYMIS LESION	5.39	3.37	0.37	9.13
54840		REMOVE EPIDIDYMIS LESION	5.33	4.94	0.50	10.77
54860		REMOVAL OF EPIDIDYMIS	6.39	5.34	0.52	12.25
54861		REMOVAL OF EPIDIDYMIS	9.06	7.60	0.76	17.42
54900	*	FUSION OF SPERMATIC DUCTS	13.40	2.62	0.20	16.22
54901	*	FUSION OF SPERMATIC DUCTS	18.38	12.35	1.21	31.94
55000		DRAINAGE OF HYDROCELE	0.80	0.40	0.04	1.24
55040		REMOVAL OF HYDROCELE	5.48	5.04	0.58	11.10
55041		REMOVAL OF HYDROCELES	7.84	7.71	0.83	16.38
55060		REPAIR OF HYDROCELE	5.53	4.36	0.53	10.42
55100		DRAINAGE OF SCROTUM ABSCESS	2.09	0.62	0.07	2.78
55110		EXPLORE SCROTUM	5.61	3.30	0.35	9.26
55120	*	REMOVAL OF SCROTUM LESION	5.07	1.68	0.19	6.94
55150		REMOVAL OF SCROTUM	7.03	5.56	0.59	13.18
55175	*	REVISION OF SCROTUM	5.23	3.90	0.40	9.53
55180	*	REVISION OF SCROTUM	10.69	6.36	0.77	17.82
55200	*	INCISION OF SPERM DUCT	4.41	1.98	0.20	6.59
55250		REMOVAL OF SPERM DUCT(S)	3.40	2.74	0.29	6.43
55300	*	PREPARATION, SPERM DUCT X-RAY	4.55	1.57	0.14	6.26
55400	*	REPAIR OF SPERM DUCT	8.76	6.82	0.65	16.23
55450	*	LIGATION OF SPERM DUCT	4.14	1.08	0.13	5.35
55500		REMOVAL OF HYDROCELE	5.61	4.18	0.49	10.28
55520		REMOVAL OF SPERM CORD LESION	6.08	2.90	0.50	9.48
55530	*	REVISE SPERMATIC CORD VEINS	5.79	5.26	0.61	11.66
55535	*	REVISE SPERMATIC CORD VEINS	6.63	6.72	0.68	14.03
55540	*	REVISE HERNIA & SPERM VEINS	7.70	4.34	0.85	12.89
55600	*	INCISE SPERM DUCT POUCH	6.45	4.29	0.57	11.31
55605	*	INCISE SPERM DUCT POUCH	8.07	5.11	0.51	13.69
55650	*	REMOVE SPERM DUCT POUCH	11.96	8.77	0.90	21.63
55680	*	REMOVE SPERM POUCH LESION	5.11	9.37	0.79	15.27
55700		BIOPSY OF PROSTATE	2.10	1.53	0.15	3.78
55705		BIOPSY OF PROSTATE	5.12	3.35	0.33	8.80
55720		DRAINAGE OF PROSTATE ABSCESS	6.00	2.35	0.21	10.56
55725	*	DRAINAGE OF PROSTATE ABSCESS	8.18	7.97	0.79	16.94
55740		REMOVAL OF PROSTATE STONE	10.89	13.62	1.32	25.83
55801		REMOVAL OF PROSTATE	17.27	13.03	1.47	31.77
55810	*	EXTENSIVE PROSTATE SURGERY	22.53	18.82	1.86	43.21
55812	*	EXTENSIVE PROSTATE SURGERY	29.43	20.49	2.15	52.07
55815		EXTENSIVE PROSTATE SURGERY	32.90	26.05	2.51	61.46

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
55821		REMOVAL OF PROSTATE	13.80	14.17	1.40	29.37
55831		REMOVAL OF PROSTATE	15.19	15.14	1.50	31.83
55840		EXTENSIVE PROSTATE SURGERY	25.23	17.03	1.68	43.94
55842		EXTENSIVE PROSTATE SURGERY	28.40	19.81	1.95	50.16
55845		EXTENSIVE PROSTATE SURGERY	24.12	26.41	2.57	53.10
55860		SURGICAL EXPOSURE, PROSTATE	14.17	6.39	0.64	21.20
55862		EXTENSIVE PROSTATE SURGERY	18.16	10.42	1.19	29.77
55865		EXTENSIVE PROSTATE SURGERY	23.00	25.63	2.50	51.13
56000		DRAINAGE OF PERINEAL ABSCESS	0.80	0.68	0.11	1.59
56100		BIOPSY OF PERINEUM	0.67	0.64	0.13	1.44
56200		REPAIR OF PERINEUM	4.22	2.66	0.53	7.41
56400		DRAINAGE OF VULVA ABSCESS	0.73	0.78	0.14	1.65
56420		DRAINAGE OF VULVA ABSCESS	0.70	0.83	0.12	1.65
56440		SURGERY FOR VULVA LESION	2.97	2.68	0.54	6.19
56501		DESTRUCTION, VULVA LESION(S)	1.57	0.57	0.11	2.25
56515		DESTRUCTION, VULVA LESION(S)	1.98	2.85	0.59	5.40
56600		BIOPSY OF VULVA	0.38	0.68	0.14	1.20
56620		PARTIAL REMOVAL OF VULVA	7.74	6.58	1.42	15.74
56625		REMOVAL OF VULVA	8.61	10.35	2.20	21.16
56630		EXTENSIVE VULVA SURGERY	12.17	16.10	3.33	31.60
56635		EXTENSIVE VULVA SURGERY	14.49	21.12	4.46	40.07
56640		EXTENSIVE VULVA SURGERY	15.42	19.75	4.45	39.62
56680		REMOVAL OF CLITORIS	4.91	1.86	0.36	7.13
56685		EXTENSIVE CLITORIS SURGERY	5.92	2.11	0.42	8.45
56700		PARTIAL REMOVAL OF HYMEN	2.57	1.18	0.23	3.98
56720		INCISION OF HYMEN	0.37	1.01	0.22	1.60
56740		REMOVE VAGINA GLAND LESION	3.83	2.96	0.58	7.37
56800		REPAIR OF VAGINA	3.96	2.89	0.55	7.40
57000		EXPLORATION OF VAGINA	3.10	1.66	0.26	5.02
57010		DRAINAGE OF PELVIC ABSCESS	5.75	2.57	0.51	8.83
57020		DRAINAGE OF PELVIC FLUID	1.59	0.65	0.13	2.37
57061		DESTRUCTION VAGINA LESION(S)	1.28	0.77	0.15	2.20
57065		DESTRUCTION VAGINA LESION(S)	2.71	2.90	0.63	6.24
57100		BIOPSY OF VAGINA	0.72	0.60	0.12	1.44
57105		BIOPSY OF VAGINA	1.99	1.47	0.30	3.76
57108		PARTIAL REMOVAL OF VAGINA	6.04	5.10	1.06	12.20
57110		REMOVAL OF VAGINA	6.90	8.04	1.79	16.73
57120		CLOSURE OF VAGINA	7.15	7.03	1.49	15.67
57130		REMOVE VAGINA LESION	2.55	2.13	0.44	5.12
57135		REMOVE VAGINA LESION	2.81	1.70	0.33	4.84
57150		TREAT VAGINA INFECTION	0.37	0.19	0.03	0.59
57160		INSERTION OF PESSARY	0.33	0.25	0.05	0.63
57170		FITTING OF DIAPHRAGM	0.35	0.30	0.05	0.70
57180		TREAT VAGINAL BLEEDING	1.63	0.56	0.10	2.29
57200		REPAIR OF VAGINA	3.92	2.50	0.55	6.97
57210		REPAIR VAGINA/PERINEUM	5.02	2.90	0.54	8.46
57220		REVISION OF URETHRA	4.10	4.50	0.80	9.40
57230		REPAIR OF URETHRAL LESION	5.39	3.17	0.58	9.14
57240		REPAIR BLADDER & VAGINA	5.72	5.62	1.12	12.46
57250		REPAIR RECTUM & VAGINA	5.29	5.26	1.12	11.67
57260		REPAIR OF VAGINA	6.06	6.23	1.79	18.08
57265		EXTENSIVE REPAIR OF VAGINA	7.62	9.56	2.07	19.45
57268		REPAIR OF BOWEL BULGE	6.53	7.08	1.51	15.12
57270		REPAIR OF BOWEL POUCH	7.62	6.83	1.44	16.09
57280		SUSPENSION OF VAGINA	6.86	6.81	1.90	19.57
57282		REPAIR OF VAGINAL PROLAPSE	6.57	6.29	1.80	18.66
57288		REPAIR BLADDER DEFECT	7.35	11.13	1.43	19.91

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
57289		REPAIR BLADDER & VAGINA	6.81	9.50	1.18	17.49
57291	*	CONSTRUCTION OF VAGINA	7.93	15.63	3.50	27.06
57292	*	CONSTRUCT VAGINA WITH GRAFT	10.19	14.46	3.06	27.71
57300		REPAIR RECTUM-VAGINA FISTULA	7.23	6.96	1.50	15.69
57305		REPAIR RECTUM-VAGINA FISTULA	9.23	7.72	1.59	18.54
57307	*	FISTULA REPAIR & COLOSTOMY	10.67	10.51	2.19	23.37
57310	*	REPAIR URETHROVAGINAL LESION	6.48	7.97	0.89	15.34
57311	*	REPAIR URETHROVAGINAL LESION	7.68	12.98	0.98	21.62
57320	*	REPAIR BLADDER-VAGINA LESION	7.79	10.08	1.39	19.26
57330	*	REPAIR BLADDER-VAGINA LESION	8.63	15.50	1.51	25.64
57400		DILATION OF VAGINA	0.45	0.31	0.05	0.81
57410		PELVIC EXAMINATION	0.34	0.35	0.04	0.73
57450		PELVIS ENDOSCOPY VIA VAGINA	1.20	0.95	0.15	2.30
57451	*	PELVIS ENDOSCOPY & BIOPSY	1.74	1.60	0.32	3.66
57452		EXAMINATION OF VAGINA	0.74	0.61	0.12	1.47
57454		VAGINA EXAMINATION & BIOPSY	0.99	1.28	0.26	2.51
57500		BIOPSY OF CERVIX	0.72	0.59	0.11	1.42
57505		ENDOCERVICAL CURETTAGE	1.15	0.65	0.13	1.93
57510		CAUTERIZATION OF CERVIX	1.26	0.53	0.09	1.88
57511		CRYOCAUTERY OF CERVIX	0.52	0.82	0.15	1.49
57513		LASER SURGERY OF CERVIX	2.55	2.68	0.57	5.80
57520		BIOPSY OF CERVIX	3.63	3.59	0.76	7.98
57530		REMOVAL OF CERVIX	4.70	3.63	0.78	9.11
57540	*	REMOVAL OF RESIDUAL CERVIX	6.39	6.31	1.28	13.98
57545	*	REMOVE CERVIX, REPAIR PELVIS	7.04	6.06	1.36	14.46
57550		REMOVAL OF RESIDUAL CERVIX	5.21	7.35	1.53	14.09
57555		REMOVE CERVIX, REPAIR VAGINA	8.64	10.82	2.29	21.55
57556	*	REMOVE CERVIX, REPAIR BOWEL	8.03	10.74	2.31	21.08
57700	*	REVISION OF CERVIX	3.51	1.22	0.12	4.85
57720	*	REVISION OF CERVIX	4.10	1.93	0.31	6.34
57800		DILATION OF CERVICAL CANAL	0.48	0.48	0.09	1.05
57820		D&C OF RESIDUAL CERVIX	1.72	2.15	0.39	4.26
58100		BIOPSY OF UTERUS LINING	0.50	0.66	0.13	1.29
58102		CURETTAGE OF UTERUS LINING	1.51	0.95	0.20	2.66
58120		DILATION AND CURETTAGE	2.80	2.89	0.61	6.10
58140		REMOVAL OF UTERUS LESION	8.08	8.08	1.64	17.78
58145	*	REMOVAL OF UTERUS LESION	7.82	8.59	1.66	18.07
58150		TOTAL HYSTERECTOMY	9.57	10.24	2.22	22.03
58152		TOTAL HYSTERECTOMY	9.89	12.75	2.77	25.41
58160		PARTIAL HYSTERECTOMY	7.75	10.13	2.18	20.06
58200		EXTENSIVE HYSTERECTOMY	12.26	13.88	3.02	29.16
58210		EXTENSIVE HYSTERECTOMY	18.43	19.22	4.22	41.87
58240		REMOVAL OF PELVIS CONTENTS	26.67	20.77	4.08	51.52
58260		VAGINAL HYSTERECTOMY	7.94	9.98	2.20	20.12
58267		HYSTERECTOMY & VAGINA REPAIR	10.00	12.00	2.55	24.55
58270		HYSTERECTOMY & VAGINA REPAIR	8.49	10.90	2.36	21.75
58275		HYSTERECTOMY, REVISE VAGINA	9.97	10.98	2.31	23.26
58280		HYSTERECTOMY, REVISE VAGINA	10.34	11.14	2.46	23.94
58285	*	EXTENSIVE HYSTERECTOMY	14.25	14.09	3.29	31.63
58300	*	INSERT INTRAUTERINE DEVICE	0.54	0.62	0.11	1.27
58301	*	REMOVE INTRAUTERINE DEVICE	0.25	0.31	0.05	0.61
58310	*	ARTIFICIAL INSEMINATION	0.44	0.35	0.08	0.87
58340	*	INJECT FOR UTERUS/TUBE X-RAY	0.56	0.67	0.10	1.33
58350	*	REOPEN FALLOPIAN TUBE	0.61	0.53	0.12	1.26
58400	*	SUSPENSION OF UTERUS	6.01	5.83	1.20	13.04
58410	*	SUSPENSION OF UTERUS	7.21	8.08	1.22	16.51
58520	*	REPAIR OF RUPTURED UTERUS	6.74	4.04	0.88	11.66

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
58540	*	REVISION OF UTERUS	9.12	9.78	2.27	21.17
58600	*	DIVISION OF FALLOPIAN TUBE	3.97	7.04	1.38	12.39
58605	*	DIVISION OF FALLOPIAN TUBE	3.50	4.32	0.90	8.72
58611	*	LIGATE OVIDUCT(S)	1.90	4.41	0.89	7.20
58615	*	OCCCLUDE FALLOPIAN TUBE(S)	4.37	5.62	1.30	11.29
58700	*	REMOVAL OF FALLOPIAN TUBE	6.29	6.45	1.33	14.07
58720	*	REMOVAL OF OVARY/TUBE(S)	6.58	7.37	1.60	15.55
58740	*	REVISE FALLOPIAN TUBE(S)	5.32	8.32	1.80	15.74
58750	*	REPAIR OVIDUCT(S)	9.37	11.49	2.66	23.52
58752	*	REVISE OVARIAN TUBE(S)	8.44	3.01	0.37	11.82
58760	*	REMOVE TUBAL OBSTRUCTION	7.61	12.05	1.64	21.30
58770	*	CREATE NEW TUBAL OPENING	7.39	14.84	3.10	25.33
58800	*	DRAINAGE OF OVARIAN CYST(S)	4.00	2.23	0.41	6.64
58805	*	DRAINAGE OF OVARIAN CYST(S)	5.78	5.03	1.08	11.89
58820	*	DRAINAGE OF OVARIAN ABSCESS	4.21	2.09	0.34	6.64
58822	*	DRAINAGE OF OVARIAN ABSCESS	6.56	5.20	1.18	12.94
58825	*	TRANSPOSITION, OVARY(S)	5.98	4.97	1.15	12.10
58900	*	BIOPSY OF OVARY(S)	5.83	4.64	0.94	11.41
58920	*	PARTIAL REMOVAL OF OVARY(S)	6.67	6.64	1.38	14.69
58925	*	REMOVAL OF OVARIAN CYST(S)	6.81	6.72	1.41	14.94
58940	*	REMOVAL OF OVARY(S)	6.94	6.57	1.34	14.85
58943	*	REMOVAL OF OVARY(S)	12.14	12.41	2.70	27.25
58950	*	RESECT OVARIAN MALIGNANCY	12.28	11.27	2.41	25.96
58951	*	RESECT OVARIAN MALIGNANCY	15.69	17.07	3.65	36.41
58952	*	RESECT OVARIAN MALIGNANCY	16.61	17.42	3.78	37.81
58980	*	EXPLORATION OF ABDOMEN	10.77	13.64	3.03	27.44
58980	*	LAPAROSCOPY OF PELVIS	3.90	4.91	1.06	9.87
58983	*	LAPAROSCOPY; TUBAL BLOCK	3.79	6.23	1.30	11.32
58984	*	LAPAROSCOPY OF PELVIS	4.48	4.97	1.01	10.46
58985	*	LAPAROSCOPY OF PELVIS	4.07	5.30	1.07	10.44
58986	*	PELVIS LAPAROSCOPY & BIOPSY	3.97	5.37	0.97	10.31
58987	*	LAPAROSCOPY OF PELVIS	3.99	5.34	1.17	10.50
58990	*	DIAGNOSTIC HYSTEROSCOPY	2.54	1.90	0.41	4.85
58992	*	TREATMENT HYSTEROSCOPY	3.41	3.05	0.64	7.10
58994	*	TREATMENT HYSTEROSCOPY	4.09	3.92	0.85	8.86
59000	*	AMNIOCENTESIS	1.03	0.88	0.17	2.08
59015	*	CHORION BIOPSY	1.98	1.23	0.09	3.30
59020	*	FETAL OXYTOCIN STRESS TEST	0.47	0.63	0.16	1.46
59025	*	FETAL NON-STRESS TEST	0.34	0.46	0.09	0.89
59030	*	FETAL SCALP BLOOD SAMPLE	1.88	0.74	0.10	2.72
59050	*	FETAL MONITOR W/REPORT	2.49	0.72	0.12	3.33
59100	*	REMOVE UTERUS LESION	6.35	5.25	1.22	12.82
59120	*	TREAT ECTOPIC PREGNANCY	7.56	6.71	1.15	15.42
59121	*	TREAT ECTOPIC PREGNANCY	7.43	7.65	1.50	16.58
59130	*	TREAT ECTOPIC PREGNANCY	8.37	4.60	0.51	13.48
59135	*	TREAT ECTOPIC PREGNANCY	9.44	11.81	2.74	23.99
59140	*	TREAT ECTOPIC PREGNANCY	5.41	2.56	0.26	8.25
59151	*	TREAT ECTOPIC PREGNANCY	7.69	6.73	0.50	14.92
59160	*	D&C AFTER DELIVERY	2.83	2.61	0.46	5.90
59200	*	INSERT CERVICAL DILATOR	0.83	0.47	0.07	1.37
59300	*	EPISIOTOMY OR VAGINAL REPAIR	3.50	1.00	0.10	4.60
59325	*	REVISION OF CERVIX	5.31	2.25	0.22	7.78
59400	*	OBSTETRICAL CARE	13.60	7.90	1.49	23.19
59410	*	OBSTETRICAL CARE	6.79	6.13	1.14	14.06
59412	*	ANTEPARTUM MANIPULATION	1.58	1.23	0.29	3.10
59420	*	CARE BEFORE DELIVERY	7.01	0.37	0.07	7.45
59430	*	CARE AFTER DELIVERY	2.78	0.38	0.07	3.23

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL (continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
59510		CESAREAN DELIVERY	17.14	12.14	2.58	31.86
59515		CESAREAN DELIVERY	10.13	10.31	2.05	22.49
59525	*	REMOVE UTERUS AFTER CESAREAN	4.57	4.83	0.98	10.36
59812	*	TREATMENT OF MISCARRIAGE	3.29	3.10	0.67	7.06
59820		CARE OF MISCARRIAGE	4.43	3.75	0.76	8.94
59840		ABORTION	3.76	2.79	0.59	7.14
59841	*	ABORTION	3.11	3.89	0.78	7.78
59850	*	ABORTION	5.80	3.10	0.65	9.55
59851	*	ABORTION	5.96	4.92	1.01	11.89
59852	*	ABORTION	8.18	3.01	0.50	11.69
60000		DRAIN THYROID/TONGUE CYST	1.20	0.55	0.07	1.82
60100		BIOPSY OF THYROID	0.72	1.09	0.12	1.93
60200		REMOVE THYROID LESION	9.38	6.12	1.06	16.56
60220		PARTIAL REMOVAL OF THYROID	10.48	8.78	1.66	20.90
60225		PARTIAL REMOVAL OF THYROID	12.38	10.78	1.98	25.12
60240		REMOVAL OF THYROID	14.99	11.05	2.05	28.09
60245		PARTIAL REMOVAL OF THYROID	12.77	9.35	1.82	23.94
60246		PARTIAL REMOVAL OF THYROID	15.05	12.42	2.34	29.81
60252		REMOVAL OF THYROID	16.36	13.58	2.54	32.48
60254		EXTENSIVE THYROID SURGERY	17.72	19.17	3.02	39.91
60260		REPEAT THYROID SURGERY	15.39	1.88	0.18	17.45
60270		REMOVAL OF THYROID	17.46	12.40	2.18	32.04
60280		REMOVE THYROID DUCT LESION	7.52	8.02	1.11	16.65
60281	*	REMOVE THYROID DUCT LESION	8.50	8.45	1.40	18.35
60500		EXPLORE PARATHYROID GLANDS	13.41	11.73	2.40	27.54
60502	*	RE-EXPLORE PARATHYROID GLANDS	18.17	11.78	2.42	32.37
60505		EXPLORE PARATHYROID GLANDS	21.17	11.03	2.21	34.41
60520		REMOVAL OF THYMUS GLAND	18.18	13.89	2.49	34.56
60540		EXPLORE ADRENAL GLAND	16.89	12.34	2.12	31.15
60545		EXPLORE ADRENAL GLAND	19.67	15.02	2.48	37.15
60600	*	REMOVE CAROTID BODY LESION	17.13	10.38	1.51	29.02
60605	*	REMOVE CAROTID BODY LESION	19.32	12.79	2.18	34.27
61000		REMOVE CRANIAL CAVITY FLUID	1.18	0.97	0.14	2.27
61001	*	REMOVE CRANIAL CAVITY FLUID	1.09	0.90	0.17	2.16
61020		REMOVE BRAIN CAVITY FLUID	1.11	1.21	0.19	2.51
61028		INJECTION INTO BRAIN CANAL	1.25	1.95	0.20	3.40
61055		INJECTION INTO BRAIN CANAL	1.19	1.87	0.19	3.25
61070		BRAIN CANAL SHUNT PROCEDURE	0.82	0.47	0.07	1.16
61105		DRILL SKULL FOR EXAMINATION	4.75	6.17	1.12	12.04
61106	*	DRILL SKULL FOR EXAM/SURGERY	4.90	6.15	1.16	12.21
61107		DRILL SKULL FOR IMPLANTATION	2.94	6.72	1.22	10.88
61108		DRILL SKULL FOR DRAINAGE	10.43	12.08	2.20	24.69
61120		PIERCE SKULL FOR EXAMINATION	9.88	5.01	0.92	15.81
61130	*	PIERCE SKULL, EXAM/SURGERY	10.22	4.47	0.88	15.55
61140		PIERCE SKULL FOR BIOPSY	15.77	12.09	2.20	30.06
61150		PIERCE SKULL FOR DRAINAGE	17.39	15.05	2.71	35.15
61151	*	PIERCE SKULL FOR DRAINAGE	14.21	1.97	0.34	16.52
61154		PIERCE SKULL, REMOVE CLOT	12.95	18.52	3.41	34.88
61156		PIERCE SKULL FOR DRAINAGE	16.18	16.50	3.10	35.78
61210		PIERCE SKULL; IMPLANT DEVICE	3.34	6.52	1.55	13.41
61215		INSERT BRAIN-FLUID DEVICE	10.87	8.58	1.57	20.80
61250	*	PIERCE SKULL & EXPLORE	11.72	6.73	1.53	21.98
61253	*	PIERCE SKULL & EXPLORE	13.80	11.34	2.05	27.19
61304		INCISE SKULL FOR EXPLORATION	21.91	27.09	4.99	53.99
61305		INCISE SKULL FOR EXPLORATION	26.32	24.80	4.52	55.64
61312		INCISE SKULL FOR DRAINAGE	21.82	24.88	4.61	51.31
61313		INCISE SKULL FOR DRAINAGE	20.17	24.42	4.45	49.04

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
61314		INCISE SKULL FOR DRAINAGE	24.19	26.63	4.85	55.67
61315		INCISE SKULL FOR DRAINAGE	27.53	24.65	4.52	56.70
61320		INCISE SKULL FOR DRAINAGE	25.39	15.43	2.90	43.72
61321	*	INCISE SKULL FOR DRAINAGE	28.32	23.58	4.19	56.09
61332	*	EXPLORE/BIOPSY EYE SOCKET	27.71	16.76	2.05	46.52
61333	*	EXPLORE ORBIT; REMOVE LESION	29.16	23.51	3.81	56.48
61343	*	INCISE SKULL, PRESSURE RELIEF	29.61	21.82	4.24	55.67
61345	*	RELIEVE CRANIAL PRESSURE	26.93	23.43	4.20	54.56
61440	*	INCISE SKULL FOR SURGERY	26.34	24.77	3.57	54.68
61450	*	INCISE SKULL FOR SURGERY	25.80	17.46	2.65	45.91
61458	*	INCISE SKULL FOR BRAIN WOUND	27.59	27.80	4.94	60.33
61460	*	INCISE SKULL FOR SURGERY	28.42	26.61	4.34	59.37
61500	*	REMOVAL OF SKULL LESION	18.00	15.18	2.61	35.79
61501	*	REMOVE INFECTED SKULL BONE	17.97	11.85	1.69	31.51
61510	*	REMOVAL OF BRAIN LESION	24.84	27.95	5.06	57.85
61512	*	REMOVE BRAIN LINING LESION	25.77	29.94	5.44	61.15
61514	*	REMOVAL OF BRAIN ABSCESS	24.95	25.80	4.74	55.29
61516	*	REMOVAL OF BRAIN LESION	24.26	26.14	4.47	54.87
61518	*	REMOVAL OF BRAIN LESION	34.28	30.62	5.61	70.51
61519	*	REMOVE BRAIN LINING LESION	35.95	32.69	6.09	74.73
61520	*	REMOVAL OF BRAIN LESION	40.73	35.21	6.19	82.13
61521	*	REMOVAL OF BRAIN LESION	41.94	34.20	6.05	82.19
61522	*	REMOVAL OF BRAIN ABSCESS	29.27	27.86	5.35	62.48
61524	*	REMOVAL OF BRAIN LESION	27.64	27.90	5.22	60.76
61526	*	REMOVAL OF BRAIN LESION	25.40	22.15	3.77	51.32
61530	*	REMOVAL OF BRAIN LESION	46.66	36.54	5.28	88.50
61533	*	INSERT BRAIN ELECTRODES	20.99	21.39	4.19	46.57
61536	*	REMOVAL OF BRAIN LESION	31.26	27.08	4.51	62.85
61538	*	REMOVAL OF BRAIN TISSUE	29.79	22.40	4.23	56.42
61539	*	REMOVAL OF BRAIN TISSUE	31.82	26.05	4.86	64.93
61541	*	INCISION OF BRAIN TISSUE	28.63	26.91	4.77	60.31
61546	*	REMOVAL OF PITUITARY GLAND	31.16	27.23	4.91	63.30
61548	*	REMOVAL OF PITUITARY GLAND	21.40	24.92	3.99	50.31
61550	*	RELEASE OF SKULL SEAMS	15.13	7.60	0.77	23.50
61570	*	REMOVE BRAIN FOREIGN BODY	24.31	24.38	4.49	53.18
61571	*	INCISE SKULL FOR BRAIN WOUND	26.08	26.12	4.64	56.84
61575	*	SKULL BASE/BRAINSTEM SURGERY	34.35	24.47	3.28	62.10
61680	*	INTRACRANIAL VESSEL SURGERY	41.72	34.34	5.77	81.83
61682	*	INTRACRANIAL VESSEL SURGERY	62.43	34.71	6.34	103.48
61684	*	INTRACRANIAL VESSEL SURGERY	47.45	26.36	5.08	80.89
61686	*	INTRACRANIAL VESSEL SURGERY	66.40	35.90	6.56	110.86
61690	*	INTRACRANIAL VESSEL SURGERY	35.93	26.29	4.21	66.43
61692	*	INTRACRANIAL VESSEL SURGERY	49.44	32.23	5.63	87.30
61700	*	INNER SKULL VESSEL SURGERY	37.00	30.99	5.60	73.59
61702	*	INNER SKULL VESSEL SURGERY	52.73	35.25	6.29	94.27
61703	*	CLAMP NECK ARTERY	17.29	22.06	4.13	43.48
61705	*	REVISE CIRCULATION TO HEAD	30.63	25.65	4.30	60.58
61708	*	REVISE CIRCULATION TO HEAD	35.68	21.76	1.76	59.22
61710	*	REVISE CIRCULATION TO HEAD	29.59	15.10	1.56	46.57
61711	*	FUSION OF SKULL ARTERIES	36.76	26.81	4.98	70.57
61790	*	TREAT TRIGEMINAL NERVE	10.95	16.67	2.91	30.53
61880	*	REVISE/REMOVE NEUROELECTRODE	6.08	8.95	1.23	16.26
62141	*	REPAIR OF SKULL DEFECT	13.28	18.17	3.36	34.81
62223	*	ESTABLISH BRAIN CAVITY SHUNT	13.13	17.41	3.18	33.72
62230	*	REPLACE/REVISE BRAIN SHUNT	10.31	10.17	1.88	22.36
62270	*	SPINAL FLUID TAP, DIAGNOSTIC	0.90	0.74	0.06	1.70
62278	*	INJECT SPINAL ANESTHETIC	1.16	1.01	0.26	2.43

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL (continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
62279		INJECT SPINAL ANESTHETIC	1.23	0.83	0.24	2.30
62284		INJECTION FOR MYELOGRAM	1.08	2.32	0.34	3.74
62289		INJECTION INTO SPINAL CANAL	1.18	1.08	0.29	2.55
63001		REMOVAL OF SPINAL LAMINA	14.61	20.30	3.63	38.54
63003		REMOVAL OF SPINAL LAMINA	14.98	18.75	3.37	37.08
63005		REMOVAL OF SPINAL LAMINA	15.72	19.14	3.31	38.17
63011	*	REMOVAL OF SPINAL LAMINA	13.74	11.08	1.95	26.75
63015		REMOVAL OF SPINAL LAMINA	17.62	24.40	4.45	46.47
63016		REMOVAL OF SPINAL LAMINA	18.51	23.42	4.31	46.24
63017		REMOVAL OF SPINAL LAMINA	17.82	24.37	4.28	46.47
63020		NECK SPINE DISK SURGERY	13.32	18.86	3.45	35.63
63030		LOW BACK DISK SURGERY	11.58	16.76	2.97	31.31
63035		ADDED SPINAL DISK SURGERY	3.35	3.97	0.70	8.02
63040		NECK SPINE DISK SURGERY	17.13	24.34	4.40	45.87
63042		LOW BACK DISK SURGERY	18.81	25.49	4.56	48.86
63045		REMOVAL OF SPINAL LAMINA	16.26	24.45	4.42	45.13
63046		REMOVAL OF SPINAL LAMINA	15.51	25.67	4.77	45.95
63047		REMOVAL OF SPINAL LAMINA	13.55	26.95	4.69	45.19
63048		REMOVAL OF SPINAL LAMINA	3.47	5.67	1.00	10.14
63064	*	DECOMPRESS SPINAL CORD	21.93	24.69	4.23	50.85
63075		NECK SPINE DISK SURGERY	14.54	17.89	3.25	35.68
63185		INCISE SPINAL COLUMN/NERVES	14.71	16.01	3.00	33.72
63250	*	REVISE SPINAL CORD VESSELS	41.07	12.03	2.21	55.31
63251	*	REVISE SPINAL CORD VESSELS	41.28	22.52	4.29	68.09
63252	*	REVISE SPINAL CORD VESSELS	41.27	21.41	4.18	66.86
63265	*	EXCISE INTRASPINAL LESION	21.29	21.56	3.75	46.60
63266		EXCISE INTRASPINAL LESION	21.93	24.84	4.42	51.19
63267		EXCISE INTRASPINAL LESION	17.74	23.30	4.16	45.20
63268	*	EXCISE INTRASPINAL LESION	18.35	27.93	5.46	51.74
63270	*	EXCISE INTRASPINAL LESION	26.40	18.86	3.59	48.85
63271	*	EXCISE INTRASPINAL LESION	26.51	27.33	4.90	58.74
63272	*	EXCISE INTRASPINAL LESION	25.17	22.66	4.17	52.00
63273	*	EXCISE INTRASPINAL LESION	24.06	21.70	4.16	49.92
63275	*	BIOPSY/EXCISE SPINAL TUMOR	23.43	27.78	5.07	56.28
63276	*	BIOPSY/EXCISE SPINAL TUMOR	23.11	24.77	4.55	52.43
63277	*	BIOPSY/EXCISE SPINAL TUMOR	20.72	23.16	4.14	48.02
63278	*	BIOPSY/EXCISE SPINAL TUMOR	20.43	23.24	4.31	47.98
63280	*	BIOPSY/EXCISE SPINAL TUMOR	28.39	30.43	5.39	64.21
63281	*	BIOPSY/EXCISE SPINAL TUMOR	28.05	28.56	5.12	61.73
63282	*	BIOPSY/EXCISE SPINAL TUMOR	26.51	24.43	4.55	55.49
63283	*	BIOPSY/EXCISE SPINAL TUMOR	25.03	26.90	5.02	56.95
63285	*	BIOPSY/EXCISE SPINAL TUMOR	36.37	28.74	5.24	70.35
63286	*	BIOPSY/EXCISE SPINAL TUMOR	36.06	29.13	5.02	70.21
63287	*	BIOPSY/EXCISE SPINAL TUMOR	36.57	26.74	4.78	68.09
63290	*	BIOPSY/EXCISE SPINAL TUMOR	37.23	24.54	4.23	66.00
63300	*	REMOVAL OF VERTEBRAL BODY	21.05	24.57	3.85	49.47
63600		REMOVE SPINAL CORD LESION	13.89	11.25	2.78	27.92
63610		STIMULATION OF SPINAL CORD	11.46	6.91	2.14	20.51
63615	*	REMOVE LESION OF SPINAL CORD	16.36	18.95	3.37	38.68
63650		IMPLANT NEUROELECTRODES	6.37	10.09	2.13	18.59
63655		IMPLANT NEUROELECTRODES	9.50	20.42	3.55	33.47
63657	*	IMPLANT NEUROELECTRODES	9.76	14.54	1.42	25.72
63658	*	IMPLANT NEUROELECTRODES	10.77	16.19	3.12	30.08
63660		REVISE/REMOVE NEUROELECTRODE	5.87	7.10	1.35	14.32
63685		IMPLANT NEURORECEIVER	6.68	7.27	1.43	15.38
63688		REVISE/REMOVE NEURORECEIVER	5.06	6.97	1.30	13.33
63700	*	REPAIR OF SPINAL HERNIATION	12.35	10.42	1.91	24.68

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
63702	*	REPAIR OF SPINAL HERNIATION	15.01	13.09	2.64	30.74
63704	*	REPAIR OF SPINAL HERNIATION	14.94	17.76	2.56	35.26
63706	*	REPAIR OF SPINAL HERNIATION	19.19	16.05	3.14	38.38
63707	*	REPAIR SPINAL FLUID LEAKAGE	10.77	14.32	2.43	27.52
63709	*	REPAIR SPINAL FLUID LEAKAGE	14.09	16.38	3.03	33.50
63710	*	GRAFT REPAIR OF SPINE DEFECT	13.81	7.18	1.12	22.11
63740	*	INSTALL SPINAL SHUNT	10.14	16.66	3.09	29.89
63744	*	REVISION OF SPINAL SHUNT	6.75	6.96	1.50	15.21
63746	*	REMOVAL OF SPINAL SHUNT	5.08	5.81	1.11	11.80
63750	*	INSERT SPINAL CANAL CATHETER	7.88	11.46	2.43	21.59
63780	*	INSERT SPINAL CANAL CATHETER	6.60	1.93	0.52	9.05
64408	*	INJECTION FOR NERVE BLOCK	0.92	1.02	0.10	2.04
64410	*	INJECTION FOR NERVE BLOCK	0.94	0.59	0.08	1.61
64421	*	INJECTION FOR NERVE BLOCK	1.03	0.83	0.17	2.03
64425	*	INJECTION FOR NERVE BLOCK	0.92	0.55	0.10	1.57
64430	*	INJECTION FOR NERVE BLOCK	0.97	0.66	0.11	1.74
64435	*	INJECTION FOR NERVE BLOCK	0.97	0.46	0.09	1.52
64440	*	INJECTION FOR NERVE BLOCK	0.86	0.79	0.09	1.74
64441	*	INJECTION FOR NERVE BLOCK	1.34	1.02	0.12	2.48
64445	*	INJECTION FOR NERVE BLOCK	1.01	0.50	0.06	1.57
64450	*	INJECTION FOR NERVE BLOCK	0.77	0.56	0.05	1.38
64508	*	INJECTION FOR NERVE BLOCK	0.57	0.50	0.03	1.10
64510	*	INJECTION FOR NERVE BLOCK	0.79	0.73	0.19	1.71
64600	*	INJECTION TREATMENT OF NERVE	3.62	1.50	0.15	5.27
64605	*	INJECTION TREATMENT OF NERVE	5.90	1.50	0.29	7.69
64610	*	INJECTION TREATMENT OF NERVE	6.11	5.59	0.99	14.69
64620	*	INJECTION TREATMENT OF NERVE	3.36	0.97	0.16	4.51
64622	*	INJECTION TREATMENT OF NERVE	3.67	1.75	0.33	5.75
64623	*	INJECTION TREATMENT OF NERVE	1.05	0.89	0.13	2.12
64630	*	INJECTION TREATMENT OF NERVE	3.48	1.00	0.23	4.71
64640	*	INJECTION TREATMENT OF NERVE	3.47	0.95	0.11	4.53
64702	*	REVISE FINGER/TOE NERVE	4.27	3.93	0.64	8.84
64704	*	REVISE HAND/FOOT NERVE	4.72	5.04	0.69	10.45
64708	*	REVISE ARM/LEG NERVE	6.07	7.52	1.27	14.86
64712	*	REVISION OF SCIATIC NERVE	7.63	9.17	1.05	18.45
64713	*	REVISION OF ARM NERVE(S)	10.98	9.10	1.68	21.76
64714	*	REVISE LOW BACK NERVE(S)	10.49	6.22	1.41	18.12
64718	*	REVISE ULNAR NERVE AT ELBOW	5.82	7.05	1.18	14.05
64719	*	REVISE ULNAR NERVE AT WRIST	5.01	5.17	0.88	11.06
64721	*	REVISE MEDIAN NERVE AT WRIST	4.22	5.15	0.87	10.24
64722	*	RELIEVE PRESSURE ON NERVE(S)	4.74	6.80	1.11	12.65
64726	*	RELEASE FOOT/TOE NERVE	4.22	0.85	0.06	5.15
64727	*	INTERNAL NERVE REVISION	6.64	2.97	0.51	10.32
64734	*	INCISION OF CHEEK NERVE	4.91	4.58	0.66	10.15
64740	*	INCISION OF TONGUE NERVE	5.57	3.40	0.47	9.44
64766	*	INCISE HIP/THIGH NERVE	6.82	4.75	0.83	14.20
64782	*	REMOVE LIMB NERVE LESION	6.17	4.95	0.48	11.61
64790	*	REMOVAL OF NERVE LESION	11.63	6.67	1.19	19.69
64792	*	REMOVAL OF NERVE LESION	13.29	9.14	1.69	26.12
64795	*	BIOPSY OF NERVE	3.77	2.38	0.27	6.50
64818	*	REMOVE SYMPATHETIC NERVES	10.02	6.68	1.75	20.45
64856	*	REPAIR/TRANSPOSE NERVE	13.61	8.38	1.49	23.48
64890	*	NERVE GRAFT, HAND OR FOOT	15.25	9.07	1.61	25.93
65091	*	REVISE EYE	6.48	6.95	0.47	15.90
65093	*	REVISE EYE WITH IMPLANT	6.88	10.32	0.55	17.75
65101	*	REMOVAL OF EYE	6.92	6.90	0.49	16.31
65103	*	REMOVE EYE/INSERT IMPLANT	7.50	9.88	0.52	17.90

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCT	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
65105		REMOVE EYE/ATTACH IMPLANT	8.30	10.69	0.58	19.57
65110		REMOVAL OF EYE	14.02	13.78	1.14	28.94
65112	*	REMOVE EYE, REVISE SOCKET	16.40	18.94	1.62	36.96
65114	*	REMOVE EYE, REVISE SOCKET	17.62	20.06	2.54	40.22
65130	*	INSERT OCULAR IMPLANT	7.18	6.89	0.41	14.48
65135	*	INSERT OCULAR IMPLANT	7.36	9.41	0.59	17.36
65140	*	ATTACH OCULAR IMPLANT	7.93	7.24	0.66	15.83
65150		REVISE OCULAR IMPLANT	6.36	10.88	0.57	17.81
65155	*	REINSERT OCULAR IMPLANT	8.72	14.50	0.93	24.15
65175		REMOVAL OF OCULAR IMPLANT	6.30	7.18	0.41	13.89
65205		REMOVE FOREIGN BODY FROM EYE	0.43	0.36	0.02	0.81
65210		REMOVE FOREIGN BODY FROM EYE	0.48	0.49	0.03	1.00
65220		REMOVE FOREIGN BODY FROM EYE	0.35	0.56	0.04	0.95
65222		REMOVE FOREIGN BODY FROM EYE	0.59	0.62	0.03	1.24
65235		REMOVE FOREIGN BODY FROM EYE	7.25	2.86	0.18	10.29
65260	*	REMOVE FOREIGN BODY FROM EYE	11.00	6.09	0.35	17.44
65265	*	REMOVE FOREIGN BODY FROM EYE	12.79	7.51	0.42	20.72
65270		REPAIR OF EYE WOUND	1.22	1.06	0.07	2.35
65272	*	REPAIR OF EYE WOUND	3.79	1.82	0.10	5.71
65273	*	REPAIR OF EYE WOUND	4.12	2.99	0.19	7.30
65275		REPAIR OF EYE WOUND	5.36	0.69	0.04	6.09
65280		REPAIR OF EYE WOUND	7.54	8.79	0.48	16.81
65285		REPAIR OF EYE WOUND	12.81	12.57	0.66	26.04
65286		REPAIR OF EYE WOUND	5.49	4.20	0.24	9.93
65290	*	REPAIR OF EYE SOCKET WOUND	5.36	5.63	0.33	11.34
65400		REMOVAL OF EYE LESION	5.95	5.11	0.27	11.33
65410		BIOPSY OF CORNEA	1.16	1.50	0.10	2.76
65420		REMOVAL OF EYE LESION	4.22	4.35	0.23	8.80
65426		REMOVAL OF EYE LESION	5.37	7.51	0.40	13.28
65430		CORNEAL SMEAR	0.70	0.56	0.03	1.29
65435		CURETTE/TREAT CORNEA	0.74	0.78	0.04	1.56
65436		CURETTE/TREAT CORNEA	2.94	1.54	0.08	4.56
65450		TREATMENT OF CORNEAL LESION	3.25	4.42	0.24	7.91
65600	*	REVISION OF CORNEA	3.34	2.53	0.14	6.01
65710		CORNEAL TRANSPLANT	10.12	17.14	1.24	28.50
65730		CORNEAL TRANSPLANT	12.57	26.24	1.37	40.18
65750		CORNEAL TRANSPLANT	13.37	27.00	1.41	41.78
65770	*	REVISE CORNEA WITH IMPLANT	17.59	12.85	0.49	30.93
65772		CORRECTION OF ASTIGMATISM	4.28	5.27	0.28	9.83
65775		CORRECTION OF ASTIGMATISM	5.78	9.11	0.47	15.36
65800		DRAINAGE OF EYE	1.56	1.68	0.09	3.33
65805		DRAINAGE OF EYE	0.93	1.77	0.09	2.79
65810		DRAINAGE OF EYE	4.85	5.23	0.29	10.37
65815		DRAINAGE OF EYE	5.04	4.37	0.23	9.64
65820		RELIEVE INNER EYE PRESSURE	6.48	9.80	0.54	16.82
65850		INCISION OF EYE	7.86	14.17	0.74	22.87
65855		LASER SURGERY OF EYE	4.94	10.07	0.53	15.54
65865		INCISE INNER EYE ADHESIONS	5.76	7.87	0.42	14.05
65870		INCISE INNER EYE ADHESIONS	6.29	5.77	0.30	12.36
65875		INCISE INNER EYE ADHESIONS	6.53	6.36	0.34	13.23
65880	*	INCISE INNER EYE ADHESIONS	7.10	6.94	0.36	14.40
65900	*	REMOVE EYE LESION	9.64	7.24	0.42	17.30
65920		REMOVE IMPLANT FROM EYE	8.40	8.31	0.43	17.14
66020		INJECTION TREATMENT OF EYE	1.65	2.35	0.12	4.12
66030		INJECTION TREATMENT OF EYE	0.93	0.60	0.03	1.56
66130		REMOVE EYE LESION	4.00	4.24	0.22	8.46
66150		INCISION OF EYE	8.07	11.10	0.60	19.77

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
66155		INCISION OF EYE	7.94	10.06	0.52	18.52
66160		INCISION OF EYE	10.07	11.37	0.59	22.03
66165		INCISION OF EYE	7.76	12.26	0.64	20.66
66170		INCISION OF EYE	9.79	11.81	0.62	22.22
66220	*	REPAIR EYE LESION	7.77	13.17	0.83	21.77
66225	*	REPAIR/GRAFT EYE LESION	11.21	17.03	0.88	29.12
66250		FOLLOW-UP SURGERY OF EYE	5.97	6.97	0.37	13.31
66500		INCISION OF IRIS	3.81	5.10	0.27	9.18
66505	*	INCISION OF IRIS	4.17	5.58	0.29	10.04
66600		REMOVE IRIS AND LESION	8.74	9.58	0.54	18.86
66605	*	REMOVAL OF IRIS	8.75	12.27	0.69	21.71
66625		REMOVAL OF IRIS	5.25	9.81	0.51	15.57
66630		REMOVAL OF IRIS	6.17	9.27	0.49	15.93
66635		REMOVAL OF IRIS	6.27	9.45	0.49	16.21
66680		REPAIR IRIS & CILIARY BODY	5.47	6.49	0.34	12.30
66682		REPAIR IRIS AND CILIARY BODY	6.23	7.01	0.37	13.61
66781		REVISION OF IRIS	4.81	8.62	0.45	13.88
66762		REVISION OF IRIS	4.00	11.13	0.55	15.68
66770		REMOVAL OF INNER EYE LESION	5.17	9.12	0.48	14.77
66820		INCISION, SECONDARY CATARACT	3.99	5.29	0.28	9.56
66821		LASERING, SECONDARY CATARACT	2.95	7.15	0.37	10.47
66830		REMOVAL OF LENS LESION	8.28	7.94	0.41	16.63
66840		REMOVAL OF LENS MATERIAL	7.97	10.81	0.57	19.35
66850		REMOVAL OF LENS MATERIAL	9.20	13.82	0.75	23.77
66920		EXTRACTION OF LENS	8.98	11.88	0.64	21.50
66930		EXTRACTION OF LENS	10.35	11.03	0.60	21.98
66940		EXTRACTION OF LENS	9.00	12.98	0.68	22.66
66983		REMOVE CATARACT, INSERT LENS	8.67	18.83	1.00	28.50
66984		REMOVE CATARACT, INSERT LENS	10.90	19.08	0.99	30.97
66985		INSERT LENS PROSTHESIS	8.39	13.16	0.69	22.24
67005		PARTIAL REMOVAL OF EYE FLUID	7.04	19.87	1.05	27.96
67010		PARTIAL REMOVAL OF EYE FLUID	7.08	20.18	1.07	28.33
67015		RELEASE OF EYE FLUID	7.10	5.66	0.33	13.09
67025		REPLACE EYE FLUID	6.85	6.20	0.33	13.38
67036		REMOVAL OF INNER EYE FLUID	12.04	29.47	1.54	43.05
67107		REPAIR DETACHED RETINA	14.87	22.15	1.16	38.18
67121		REMOVE EYE IMPLANT MATERIAL	10.81	9.33	0.49	20.63
67210		TREATMENT OF RETINAL LESION	6.81	9.55	0.49	16.85
67228		TREATMENT OF RETINAL LESION	6.93	9.73	0.50	17.16
67250	*	REINFORCE EYE WALL	8.87	5.90	0.50	15.27
67255		REINFORCE/GRAFT EYE WALL	8.91	16.90	0.88	26.69
67311		REVISE EYE MUSCLE	6.69	9.05	0.48	16.22
67312	*	REVISE TWO EYE MUSCLES	6.01	10.37	0.55	16.93
67320	*	REVISE EYE MUSCLE(S)	8.77	10.81	0.60	20.28
67331	*	EYE SURGERY FOLLOW-UP	8.21	10.17	0.55	18.93
67332		REREVISE EYE MUSCLES	9.13	11.26	0.60	20.99
67335		REVISE EYE MUSCLES	9.04	5.80	0.31	15.15
67345	*	DESTROY NERVE OF EYE MUSCLE	2.34	1.43	0.07	3.84
67350	*	BIOPSY EYE MUSCLE	4.47	4.18	0.22	8.87
67400		EXPLORE/BIOPSY EYE SOCKET	9.77	11.11	0.84	21.52
67405	*	EXPLORE/DRAIN EYE SOCKET	7.89	9.29	0.82	17.80
67412		EXPLORE/TREAT EYE SOCKET	9.70	12.38	0.70	22.78
67413	*	EXPLORE/TREAT EYE SOCKET	10.37	5.31	0.44	16.12
67415		BIOPSY OF EYE	2.79	1.92	0.11	4.82
67420	*	EXPLORE/TREAT EYE SOCKET	14.20	16.99	1.12	32.31
67430	*	EXPLORE/TREAT EYE SOCKET	13.58	11.71	0.66	25.95
67440		EXPLORE/DRAIN EYE SOCKET	13.20	17.12	1.03	31.35

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
67450		EXPLORE/BIOPSY EYE SOCKET	13.60	15.11	0.86	29.57
67500		INJECT/TREAT EYE SOCKET	0.55	0.75	0.06	1.36
67505		INJECT/TREAT EYE SOCKET	1.06	1.01	0.05	2.12
67515		INJECT/TREAT EYE SOCKET	0.42	0.58	0.03	1.03
67550		INSERT EYE SOCKET IMPLANT	10.29	9.37	0.69	20.35
67560		REVISE EYE SOCKET IMPLANT	10.72	7.71	0.45	18.88
67700		DRAINAGE OF EYELID ABSCESS	0.66	0.49	0.03	1.18
67710		INCISION OF EYELID	0.38	1.00	0.06	1.44
67715		INCISION OF EYELID FOLD	0.60	1.57	0.08	2.25
67800		REMOVE EYELID LESION	1.44	0.97	0.05	2.46
67801		REMOVE EYELID LESIONS	1.96	1.49	0.08	3.53
67805		REMOVE EYELID LESIONS	2.30	1.46	0.08	3.84
67808		REMOVE EYELID LESION(S)	3.77	2.10	0.12	5.99
67610		BIOPSY OF EYELID	1.24	0.85	0.05	2.14
67820		REVISE EYELASHES	0.33	0.36	0.02	0.71
67825		REVISE EYELASHES	0.70	0.83	0.04	1.57
67830		REVISE EYELASHES	1.76	2.30	0.13	4.19
67835		REVISE EYELASHES	5.75	8.88	0.48	15.11
67840		REMOVE EYELID LESION	1.28	1.24	0.07	2.59
67850		TREAT EYELID LESION	0.98	0.81	0.04	1.83
67880		REVISION OF EYELID	3.77	3.98	0.23	7.98
67882		REVISION OF EYELID	5.08	6.43	0.37	11.88
67901		REPAIR EYELID DEFECT	7.24	10.00	0.86	17.90
67902		REPAIR EYELID DEFECT	7.31	11.09	0.75	19.15
67903		REPAIR EYELID DEFECT	6.60	12.97	0.77	20.34
67904		REPAIR EYELID DEFECT	6.35	12.52	0.75	19.62
67906		REPAIR EYELID DEFECT	7.05	9.40	0.83	17.08
67907		REPAIR EYELID DEFECT	6.67	12.34	0.64	19.65
67908		REPAIR EYELID DEFECT	5.28	10.24	0.56	16.08
67909		REVISE EYELID DEFECT	5.54	7.44	0.50	13.48
67911		REVISE EYELID DEFECT	5.41	11.36	0.81	17.58
67914		REPAIR EYELID DEFECT	3.83	5.78	0.35	9.96
67915		REPAIR EYELID DEFECT	3.29	1.35	0.07	4.71
67916		REPAIR EYELID DEFECT	5.48	6.87	0.38	12.51
67917		REPAIR EYELID DEFECT	6.21	8.21	0.49	14.91
67921		REPAIR EYELID DEFECT	3.53	3.83	0.24	7.60
67922		REPAIR EYELID DEFECT	3.17	1.13	0.06	4.36
67923		REPAIR EYELID DEFECT	6.06	6.99	0.38	13.43
67924		REPAIR EYELID DEFECT	6.00	8.15	0.44	14.59
67930		REPAIR EYELID WOUND	3.78	1.18	0.07	5.03
67935		REPAIR EYELID WOUND	6.45	3.17	0.19	9.81
67938		REMOVE EYELID FOREIGN BODY	1.38	0.55	0.03	1.94
67950		REVISION OF EYELID	6.00	7.29	0.43	13.72
67981		REVISION OF EYELID	5.84	7.84	0.51	14.29
67966		REVISION OF EYELID	6.79	10.54	0.67	18.00
67971		RECONSTRUCTION OF EYELID	10.17	10.41	0.63	21.21
67973		RECONSTRUCTION OF EYELID	13.37	14.25	0.97	28.59
67974		RECONSTRUCTION OF EYELID	13.34	13.19	0.84	27.37
67975		RECONSTRUCTION OF EYELID	9.48	3.72	0.22	13.40
68020		INCISE/DRAIN EYELID LINING	1.40	0.51	0.03	1.94
68040		TREATMENT OF EYELID LESIONS	0.90	0.46	0.02	1.38
68100		BIOPSY OF EYELID LINING	1.76	0.95	0.05	2.76
68110		REMOVE EYELID LINING LESION	1.83	1.24	0.06	3.13
68115		REMOVE EYELID LINING LESION	2.48	1.93	0.10	4.49
68130		REMOVE EYELID LINING LESION	5.04	3.58	0.19	8.81
68135		REMOVE EYELID LINING LESION	1.10	0.69	0.03	1.82
68200		TREAT EYELID BY INJECTION	0.31	0.52	0.03	0.86

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
68320		REVISE/GRAFT EYELID LINING	5.30	7.72	0.42	13.44
68325	*	REVISE/GRAFT EYELID LINING	7.39	10.04	0.62	18.05
68326		REVISE/GRAFT EYELID LINING	7.18	8.77	0.50	16.45
68328	*	REVISE/GRAFT EYELID LINING	8.27	12.10	0.83	21.20
68330		REVISE EYELID LINING	4.80	5.46	0.29	10.55
68335	*	REVISE/GRAFT EYELID LINING	7.22	12.00	0.85	20.07
68340		SEPARATE EYELID ADHESIONS	4.15	2.24	0.12	6.51
68360		REVISE EYELID LINING	4.37	5.81	0.33	10.51
68362		REVISE EYELID LINING	7.37	7.83	0.41	15.61
68400		INCISE/DRAIN TEAR GLAND	1.74	0.98	0.05	2.77
68420		INCISE/DRAIN TEAR SAC	2.39	0.97	0.05	3.41
68440		INCISE TEAR DUCT OPENING	0.33	0.74	0.04	1.11
68500	*	REMOVAL OF TEAR GLAND	11.13	2.59	0.23	13.95
68505	*	PARTIAL REMOVAL TEAR GLAND	11.04	7.22	0.44	18.70
68510	*	BIOPSY OF TEAR GLAND	5.77	1.80	0.13	7.70
68520		REMOVAL OF TEAR SAC	7.56	9.23	0.52	17.31
68525	*	BIOPSY OF TEAR SAC	5.43	1.84	0.10	7.17
68530		CLEARANCE OF TEAR DUCT	3.84	2.44	0.14	6.42
68540	*	REMOVE TEAR GLAND LESION	10.72	10.12	0.81	21.45
68550	*	REMOVE TEAR GLAND LESION	13.45	15.93	1.04	30.42
68700		REPAIR TEAR DUCTS	6.58	2.70	0.16	9.44
68705		REVISE TEAR DUCT OPENING	2.14	0.93	0.05	3.12
68720		CREATE TEAR SAC DRAIN	8.17	13.02	0.76	21.95
68745	*	CREATE TEAR DUCT DRAIN	8.74	14.95	1.09	24.78
68750		CREATE TEAR DUCT DRAIN	8.72	14.45	0.80	23.97
68760		CLOSE TEAR DUCT OPENING	1.79	0.90	0.04	2.73
68770		CLOSE TEAR SYSTEM FISTULA	7.03	4.06	0.22	11.31
68800		DILATE TEAR DUCT OPENING(S)	0.45	0.41	0.02	0.88
68820		EXPLORE TEAR DUCT SYSTEM	0.75	0.58	0.03	1.36
68825		EXPLORE TEAR DUCT SYSTEM	1.64	1.29	0.07	3.00
68830		REOPEN TEAR DUCT CHANNEL	2.25	2.02	0.10	4.37
68840		EXPLORE/IRRIGATE TEAR DUCTS	0.81	0.48	0.03	1.12
68850		INJECTION FOR TEAR SAC X-RAY	0.56	0.55	0.03	1.14
69000		DRAIN EXTERNAL EAR LESION	0.79	0.33	0.03	1.15
69005		DRAIN EXTERNAL EAR LESION	2.18	0.91	0.10	3.19
69020		DRAIN OUTER EAR CANAL LESION	0.84	0.43	0.04	1.31
69100		BIOPSY OF EXTERNAL EAR	0.94	0.68	0.07	1.69
69105		BIOPSY OF EXTERNAL EAR CANAL	1.08	0.82	0.09	1.99
69110		PARTIAL REMOVAL EXTERNAL EAR	3.55	2.66	0.36	6.57
69120		REMOVAL OF EXTERNAL EAR	4.19	0.66	0.06	4.93
69140		REMOVE EAR CANAL LESION(S)	7.27	7.62	0.84	15.73
69145		REMOVE EAR CANAL LESION(S)	2.70	2.10	0.23	5.03
69150		EXTENSIVE EAR CANAL SURGERY	13.81	10.12	1.21	25.14
69155	*	EXTENSIVE EAR/NECK SURGERY	23.34	20.65	2.27	46.46
69200		CLEAR OUTER EAR CANAL	0.96	0.38	0.03	1.37
69205		CLEAR OUTER EAR CANAL	1.22	0.90	0.09	2.21
69210		REMOVE IMPACTED EAR WAX	0.70	0.23	0.02	0.95
69220		CLEAN OUT MASTOID CAVITY	1.03	0.42	0.04	1.49
69222		CLEAN OUT MASTOID CAVITY	1.44	0.74	0.06	2.26
69310		REBUILD OUTER EAR CANAL	11.24	8.47	0.90	20.61
69320	*	REBUILD OUTER EAR CANAL	17.63	9.34	1.00	27.97
69400		INFLATE MIDDLE EAR CANAL	0.88	0.43	0.04	1.35
69401		INFLATE MIDDLE EAR CANAL	0.67	0.24	0.03	0.94
69405		CATHETERIZE MIDDLE EAR CANAL	2.74	0.52	0.04	3.30
69420		INCISION OF EARDRUM	0.74	0.70	0.08	1.52
69421		INCISION OF EARDRUM	0.70	1.14	0.12	1.96
69424		REMOVE VENTILATING TUBE	1.09	0.60	0.06	1.75

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPs ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
69433		CREATE EARDRUM OPENING	0.94	1.35	0.14	2.43
69436		CREATE EARDRUM OPENING	1.39	2.10	0.23	3.72
69440		EXPLORATION OF MIDDLE EAR	7.78	8.80	0.94	17.50
69450	*	EARDRUM REVISION	5.78	7.49	0.79	14.06
69501	*	MASTOIDECTOMY	9.36	10.93	1.17	21.46
69502		MASTOIDECTOMY	12.98	14.08	1.53	28.59
69505		REMOVE MASTOID STRUCTURES	13.35	16.85	1.84	32.04
69511		EXTENSIVE MASTOID SURGERY	13.33	17.77	1.91	33.01
69530	*	EXTENSIVE MASTOID SURGERY	19.18	10.24	1.04	30.44
69535	*	REMOVE PART OF TEMPORAL BONE	31.85	22.84	2.50	57.19
69540		REMOVE EAR LESION	1.22	1.28	0.13	2.61
69550	*	REMOVE EAR LESION	11.36	15.38	1.59	28.33
69552	*	REMOVE EAR LESION	18.90	18.13	2.04	37.07
69554	*	REMOVE EAR LESION	27.39	38.42	4.42	70.23
69601	*	MASTOID SURGERY REVISION	12.58	14.11	1.57	28.26
69602	*	MASTOID SURGERY REVISION	13.99	17.21	1.85	33.05
69603	*	MASTOID SURGERY REVISION	13.98	17.48	1.86	33.30
69604	*	MASTOID SURGERY REVISION	14.10	24.15	2.60	40.85
69605	*	MASTOID SURGERY REVISION	18.11	15.84	2.10	36.05
69610		REPAIR OF EARDRUM	4.85	0.85	0.07	5.37
69620		REPAIR OF EARDRUM	8.10	10.84	1.15	18.09
69631		REPAIR EARDRUM STRUCTURES	10.16	15.87	1.70	27.73
69632		REBUILD EARDRUM STRUCTURES	13.18	18.92	1.82	31.92
69633		REBUILD EARDRUM STRUCTURES	12.50	17.84	1.87	32.01
69635		REPAIR EARDRUM STRUCTURES	13.83	18.81	2.02	34.66
69636		REBUILD EARDRUM STRUCTURES	15.81	20.20	2.19	38.20
69637		REBUILD EARDRUM STRUCTURES	15.89	21.34	2.28	39.31
69641		REVISE MIDDLE EAR & MASTOID	14.16	18.38	1.94	34.48
69642		REVISE MIDDLE EAR & MASTOID	17.39	21.74	2.31	41.44
69643		REVISE MIDDLE EAR & MASTOID	15.73	23.17	2.51	41.51
69644		REVISE MIDDLE EAR & MASTOID	17.48	26.13	2.84	46.45
69645		REVISE MIDDLE EAR & MASTOID	16.79	24.39	2.59	43.77
69646		REVISE MIDDLE EAR & MASTOID	18.43	23.43	2.56	44.42
69650	*	RELEASE MIDDLE EAR BONE	9.99	11.19	1.22	22.40
69660		REVISE MIDDLE EAR BONE	13.17	17.42	1.87	32.46
69661		REVISE MIDDLE EAR BONE	16.27	18.94	1.99	37.20
69662	*	REVISE MIDDLE EAR BONE	15.97	17.58	1.86	35.41
69666		REPAIR MIDDLE EAR STRUCTURES	9.95	18.96	1.84	28.65
69667		REPAIR MIDDLE EAR STRUCTURES	9.97	18.30	1.72	27.99
69670	*	REMOVE MASTOID AIR CELLS	12.27	13.05	1.40	26.72
69676	*	REMOVE MIDDLE EAR NERVE	9.60	13.76	1.39	24.95
69700	*	CLOSE MASTOID FISTULA	8.46	1.74	0.19	10.39
69720		RELEASE FACIAL NERVE	14.65	16.15	1.80	32.60
69725	*	RELEASE FACIAL NERVE	16.81	17.87	1.83	36.51
69740	*	REPAIR FACIAL NERVE	18.33	15.98	1.85	34.16
69745	*	REPAIR FACIAL NERVE	17.10	14.08	1.21	32.37
69801	*	INCISE INNER EAR	9.70	17.09	1.89	27.68
69802	*	INCISE INNER EAR	13.21	24.58	2.48	40.25
69805	*	EXPLORE INNER EAR	10.90	18.13	1.99	31.02
69806		EXPLORE INNER EAR	12.56	23.98	2.60	39.14
69820	*	ESTABLISH INNER EAR WINDOW	10.77	9.18	0.72	20.67
69840	*	REVISE INNER EAR WINDOW	10.88	7.89	0.47	18.84
69905	*	REMOVE INNER EAR	11.38	19.04	2.15	32.55
69915	*	INCISE INNER EAR NERVE	21.12	23.66	2.71	47.49
69930	*	IMPLANT COCHLEAR DEVICE	14.88	32.12	3.31	50.31
69950	*	INCISE INNER EAR NERVE	22.47	25.12	3.17	50.76
69955	*	RELEASE FACIAL NERVE	23.50	24.24	2.77	50.51

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCCPS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
69960	*	RELEASE INNER EAR CANAL	20.98	10.73	1.17	32.88
69970	*	REMOVE INNER EAR LESION	23.69	22.68	2.57	48.94
70010	26	CONTRAST X-RAY OF BRAIN	1.15	0.56	0.08	1.79
70010	TC	CONTRAST X-RAY OF BRAIN	0.00	4.38	0.28	4.66
70015	26	CONTRAST X-RAY OF BRAIN	1.15	0.56	0.08	1.79
70015	TC	CONTRAST X-RAY OF BRAIN	0.00	1.37	0.09	1.46
70030	26	X-RAY EYE FOR FOREIGN BODY	0.17	0.08	0.01	0.26
70030	TC	X-RAY EYE FOR FOREIGN BODY	0.00	0.42	0.03	0.45
70100	26	X-RAY EXAM OF JAW	0.18	0.09	0.01	0.28
70100	TC	X-RAY EXAM OF JAW	0.00	0.53	0.03	0.56
70110	26	X-RAY EXAM OF JAW	0.24	0.12	0.02	0.38
70110	TC	X-RAY EXAM OF JAW	0.00	0.63	0.04	0.67
70120	26	X-RAY EXAM OF MASTOIDS	0.18	0.09	0.01	0.28
70120	TC	X-RAY EXAM OF MASTOIDS	0.00	0.63	0.04	0.67
70130	26	X-RAY EXAM OF MASTOIDS	0.32	0.16	0.02	0.50
70130	TC	X-RAY EXAM OF MASTOIDS	0.00	0.80	0.05	0.85
70134	26	X-RAY EXAM OF MIDDLE EAR	0.32	0.16	0.02	0.50
70134	TC	X-RAY EXAM OF MIDDLE EAR	0.00	0.74	0.05	0.79
70140	26	X-RAY EXAM OF FACIAL BONES	0.18	0.09	0.01	0.28
70140	TC	X-RAY EXAM OF FACIAL BONES	0.00	0.63	0.04	0.67
70150	26	X-RAY EXAM OF FACIAL BONES	0.25	0.12	0.02	0.39
70150	TC	X-RAY EXAM OF FACIAL BONES	0.00	0.80	0.05	0.85
70160	26	X-RAY EXAM OF NASAL BONES	0.17	0.08	0.01	0.26
70160	TC	X-RAY EXAM OF NASAL BONES	0.00	0.53	0.03	0.56
70170	26	X-RAY EXAM OF TEAR DUCT	0.28	0.14	0.02	0.44
70170	TC	X-RAY EXAM OF TEAR DUCT	0.00	0.96	0.06	1.02
70190	26	X-RAY EXAM OF EYE SOCKETS	0.21	0.10	0.02	0.33
70190	TC	X-RAY EXAM OF EYE SOCKETS	0.00	0.63	0.04	0.67
70200	26	X-RAY EXAM OF EYE SOCKETS	0.27	0.13	0.02	0.42
70200	TC	X-RAY EXAM OF EYE SOCKETS	0.00	0.80	0.05	0.85
70210	26	X-RAY EXAM OF SINUSES	0.17	0.08	0.01	0.26
70210	TC	X-RAY EXAM OF SINUSES	0.00	0.63	0.04	0.67
70220	26	X-RAY EXAM OF SINUSES	0.24	0.12	0.02	0.38
70220	TC	X-RAY EXAM OF SINUSES	0.00	0.80	0.05	0.85
70240	26	X-RAY EXAM PITUITARY SADDLE	0.19	0.09	0.01	0.29
70240	TC	X-RAY EXAM PITUITARY SADDLE	0.00	0.42	0.03	0.45
70250	26	X-RAY EXAM OF SKULL	0.23	0.11	0.02	0.36
70250	TC	X-RAY EXAM OF SKULL	0.00	0.63	0.04	0.67
70260	26	X-RAY EXAM OF SKULL	0.32	0.16	0.02	0.50
70260	TC	X-RAY EXAM OF SKULL	0.00	0.90	0.06	0.96
70300	26	X-RAY EXAM OF TEETH	0.10	0.05	0.01	0.16
70300	TC	X-RAY EXAM OF TEETH	0.00	0.27	0.02	0.29
70310	26	X-RAY EXAM OF TEETH	0.15	0.07	0.01	0.23
70310	TC	X-RAY EXAM OF TEETH	0.00	0.42	0.03	0.45
70320	26	FULL MOUTH X-RAY OF TEETH	0.21	0.10	0.02	0.33
70320	TC	FULL MOUTH X-RAY OF TEETH	0.00	0.80	0.05	0.85
70328	26	X-RAY EXAM OF JAW JOINT	0.18	0.09	0.01	0.28
70328	TC	X-RAY EXAM OF JAW JOINT	0.00	0.50	0.03	0.53
70330	26	X-RAY EXAM OF JAW JOINTS	0.23	0.11	0.02	0.36
70330	TC	X-RAY EXAM OF JAW JOINTS	0.00	0.85	0.05	0.90
70332	26	X-RAY EXAM OF JAW JOINT	0.54	0.26	0.04	0.84
70332	TC	X-RAY EXAM OF JAW JOINT	0.00	2.12	0.13	2.25
70338	26	MAGNETIC IMAGE JAW JOINT	0.92	0.45	0.06	1.43
70338	TC	MAGNETIC IMAGE JAW JOINT	0.00	12.60	0.79	13.39
70350	26	X-RAY HEAD FOR ORTHODONTIA	0.16	0.06	0.01	0.25
70350	TC	X-RAY HEAD FOR ORTHODONTIA	0.00	0.37	0.02	0.39
70355	26	PANORAMIC X-RAY OF JAWS	0.19	0.10	0.01	0.30

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
70355	TC	PANORAMIC X-RAY OF JAWS	0.00	0.58	0.03	0.61
70360	26	X-RAY EXAM OF NECK	0.18	0.08	0.01	0.25
70360	TC	X-RAY EXAM OF NECK	0.00	0.42	0.03	0.45
70370	26	THROAT X-RAY & FLUOROSCOPY	0.30	0.15	0.02	0.47
70370	TC	THROAT X-RAY & FLUOROSCOPY	0.00	1.32	0.08	1.40
70371	26	SPEECH EVALUATION, COMPLEX	0.81	0.40	0.06	1.27
70371	TC	SPEECH EVALUATION, COMPLEX	0.00	2.12	0.13	2.25
70373	26	CONTRAST X-RAY OF LARYNX	0.43	0.21	0.03	0.67
70373	TC	CONTRAST X-RAY OF LARYNX	0.00	1.80	0.11	1.91
70380	26	X-RAY EXAM OF SALIVARY GLAND	0.17	0.08	0.01	0.26
70380	TC	X-RAY EXAM OF SALIVARY GLAND	0.00	0.69	0.04	0.73
70390	26	X-RAY EXAM OF SALIVARY DUCT	0.36	0.17	0.03	0.56
70390	TC	X-RAY EXAM OF SALIVARY DUCT	0.00	1.80	0.11	1.91
70450	26	CAT SCAN OF HEAD OR BRAIN	0.83	0.41	0.08	1.30
70450	TC	CAT SCAN OF HEAD OR BRAIN	0.00	5.30	0.33	5.63
70460	26	CONTRAST CAT SCAN OF HEAD	1.09	0.53	0.08	1.70
70460	TC	CONTRAST CAT SCAN OF HEAD	0.00	6.37	0.40	6.77
70470	26	CONTRAST CAT SCANS OF HEAD	1.23	0.60	0.09	1.92
70470	TC	CONTRAST CAT SCANS OF HEAD	0.00	7.96	0.50	8.46
70480	26	CAT SCAN OF SKULL	1.24	0.61	0.09	1.94
70480	TC	CAT SCAN OF SKULL	0.00	5.30	0.33	5.63
70481	26	CONTRAST CAT SCAN OF SKULL	1.34	0.66	0.10	2.10
70481	TC	CONTRAST CAT SCAN OF SKULL	0.00	6.37	0.40	6.77
70482	26	CONTRAST CAT SCANS OF SKULL	1.41	0.69	0.10	2.20
70482	TC	CONTRAST CAT SCANS OF SKULL	0.00	7.96	0.50	8.46
70486	26	CAT SCAN OF FACE, JAW	1.10	0.54	0.08	1.72
70486	TC	CAT SCAN OF FACE, JAW	0.00	5.30	0.33	5.63
70487	26	CONTRAST CAT SCAN, FACE/JAW	1.26	0.62	0.09	1.97
70487	TC	CONTRAST CAT SCAN, FACE/JAW	0.00	6.37	0.40	6.77
70488	26	CONTRAST CAT SCANS FACE/JAW	1.38	0.68	0.10	2.16
70488	TC	CONTRAST CAT SCANS FACE/JAW	0.00	7.96	0.50	8.46
70490	26	CAT SCAN OF NECK TISSUE	1.24	0.61	0.09	1.94
70490	TC	CAT SCAN OF NECK TISSUE	0.00	5.30	0.33	5.63
70491	26	CONTRAST CAT OF NECK TISSUE	1.34	0.66	0.10	2.10
70491	TC	CONTRAST CAT OF NECK TISSUE	0.00	6.37	0.40	6.77
70492	26	CONTRAST CAT OF NECK TISSUE	1.41	0.69	0.10	2.20
70492	TC	CONTRAST CAT OF NECK TISSUE	0.00	7.96	0.50	8.46
70540	26	MAGNETIC IMAGE, FACE, NECK	1.43	0.70	0.10	2.23
70540	TC	MAGNETIC IMAGE, FACE, NECK	0.00	12.60	0.79	13.39
70551	26	MAGNETIC IMAGE, BRAIN	1.43	0.70	0.10	2.23
70551	TC	MAGNETIC IMAGE, BRAIN	0.00	12.60	0.79	13.39
70552	26	MAGNETIC IMAGE, BRAIN	1.72	0.84	0.12	2.68
70552	TC	MAGNETIC IMAGE, BRAIN	0.00	15.12	0.95	16.07
71010	26	X-RAY EXAM OF CHEST	0.17	0.09	0.01	0.27
71010	TC	X-RAY EXAM OF CHEST	0.00	0.48	0.03	0.51
71015	26	STEREO X-RAY EXAM OF CHEST	0.20	0.10	0.01	0.31
71015	TC	STEREO X-RAY EXAM OF CHEST	0.00	0.53	0.03	0.56
71020	26	X-RAY EXAM OF CHEST	0.21	0.10	0.02	0.33
71020	TC	X-RAY EXAM OF CHEST	0.00	0.63	0.04	0.67
71021	26	X-RAY EXAM OF CHEST	0.25	0.12	0.02	0.39
71021	TC	X-RAY EXAM OF CHEST	0.00	0.74	0.05	0.79
71022	26	X-RAY EXAM OF CHEST	0.30	0.15	0.02	0.47
71022	TC	X-RAY EXAM OF CHEST	0.00	0.74	0.05	0.79
71023	26	CHEST X-RAY AND FLUOROSCOPY	0.36	0.18	0.03	0.57
71023	TC	CHEST X-RAY AND FLUOROSCOPY	0.00	0.80	0.05	0.85
71030	26	X-RAY EXAM OF CHEST	0.30	0.15	0.02	0.47
71030	TC	X-RAY EXAM OF CHEST	0.00	0.80	0.05	0.85

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
71034	26	CHEST X-RAY & FLUOROSCOPY	0.45	0.22	0.03	0.70
71034	TC	CHEST X-RAY & FLUOROSCOPY	0.00	1.46	0.09	1.55
71035	26	X-RAY EXAM OF CHEST	0.17	0.09	0.01	0.27
71035	TC	X-RAY EXAM OF CHEST	0.00	0.53	0.03	0.56
71036	26	X-RAY GUIDANCE FOR BIOPSY	0.54	0.26	0.04	0.84
71036	TC	X-RAY GUIDANCE FOR BIOPSY	0.00	1.59	0.10	1.69
71037	26	X-RAY GUIDANCE FOR BIOPSY	2.59	1.27	0.18	4.04
71037	TC	X-RAY GUIDANCE FOR BIOPSY	0.00	1.59	0.10	1.69
71038	26	X-RAY GUIDANCE FOR BIOPSY	0.54	0.26	0.04	0.84
71038	TC	X-RAY GUIDANCE FOR BIOPSY	0.00	1.70	0.10	1.80
71040	26	CONTRAST X-RAY OF BRONCHI	0.57	0.28	0.04	0.89
71040	TC	CONTRAST X-RAY OF BRONCHI	0.00	1.49	0.09	1.58
71060	26	CONTRAST X-RAY OF BRONCHI	0.72	0.35	0.05	1.12
71060	TC	CONTRAST X-RAY OF BRONCHI	0.00	2.23	0.14	2.37
71090	26	X-RAY & PACEMAKER INSERTION	0.54	0.26	0.04	0.84
71090	TC	X-RAY & PACEMAKER INSERTION	0.00	1.70	0.10	1.80
71100	26	X-RAY EXAM OF RIBS	0.21	0.10	0.02	0.33
71100	TC	X-RAY EXAM OF RIBS	0.00	0.58	0.03	0.61
71101	26	X-RAY EXAM OF RIBS, CHEST	0.26	0.13	0.02	0.41
71101	TC	X-RAY EXAM OF RIBS, CHEST	0.00	0.69	0.04	0.73
71110	26	X-RAY EXAM OF RIBS	0.26	0.13	0.02	0.41
71110	TC	X-RAY EXAM OF RIBS	0.00	0.80	0.05	0.85
71111	26	X-RAY EXAM OF RIBS, CHEST	0.30	0.15	0.02	0.47
71111	TC	X-RAY EXAM OF RIBS, CHEST	0.00	0.90	0.06	0.96
71120	26	X-RAY EXAM OF BREASTBONE	0.19	0.10	0.01	0.30
71120	TC	X-RAY EXAM OF BREASTBONE	0.00	0.66	0.04	0.70
71130	26	X-RAY EXAM OF BREASTBONE	0.21	0.10	0.02	0.33
71130	TC	X-RAY EXAM OF BREASTBONE	0.00	0.72	0.04	0.76
71250	26	CAT SCAN OF CHEST	1.12	0.55	0.08	1.75
71250	TC	CAT SCAN OF CHEST	0.00	6.63	0.42	7.05
71260	26	CONTRAST CAT SCAN OF CHEST	1.21	0.59	0.09	1.89
71260	TC	CONTRAST CAT SCAN OF CHEST	0.00	7.96	0.50	8.46
71270	26	CONTRAST CAT SCANS OF CHEST	1.34	0.86	0.10	2.10
71270	TC	CONTRAST CAT SCANS OF CHEST	0.00	9.95	0.82	10.57
71550	26	MAGNETIC IMAGE, CHEST	1.56	0.76	0.11	2.43
71550	TC	MAGNETIC IMAGE, CHEST	0.00	12.60	0.79	13.39
72010	26	X-RAY EXAM OF SPINE	0.43	0.21	0.03	0.67
72010	TC	X-RAY EXAM OF SPINE	0.00	1.03	0.06	1.09
72020	26	X-RAY EXAM OF SPINE	0.14	0.07	0.01	0.22
72020	TC	X-RAY EXAM OF SPINE	0.00	0.42	0.03	0.45
72040	26	X-RAY EXAM OF NECK SPINE	0.21	0.10	0.02	0.33
72040	TC	X-RAY EXAM OF NECK SPINE	0.00	0.61	0.04	0.65
72050	26	X-RAY EXAM OF NECK SPINE	0.30	0.15	0.02	0.47
72050	TC	X-RAY EXAM OF NECK SPINE	0.00	0.90	0.06	0.96
72052	26	X-RAY EXAM OF NECK SPINE	0.34	0.17	0.03	0.54
72052	TC	X-RAY EXAM OF NECK SPINE	0.00	1.14	0.07	1.21
72069	26	RADIOLOGIC EXAM (SCOLIOSIS)	0.21	0.10	0.02	0.33
72069	TC	RADIOLOGIC EXAM (SCOLIOSIS)	0.00	0.51	0.03	0.54
72070	26	X-RAY EXAM OF THORAX SPINE	0.21	0.10	0.02	0.33
72070	TC	X-RAY EXAM OF THORAX SPINE	0.00	0.66	0.04	0.70
72072	26	X-RAY EXAM OF THORACIC SPINE	0.21	0.10	0.02	0.33
72072	TC	X-RAY EXAM OF THORACIC SPINE	0.00	0.74	0.05	0.79
72074	26	X-RAY EXAM OF THORACIC SPINE	0.21	0.10	0.02	0.33
72074	TC	X-RAY EXAM OF THORACIC SPINE	0.00	0.93	0.06	0.99
72080	26	X-RAY EXAM OF TRUNK SPINE	0.21	0.10	0.02	0.33
72080	TC	X-RAY EXAM OF TRUNK SPINE	0.00	0.69	0.04	0.73
72090	26	X-RAY EXAM OF TRUNK SPINE	0.26	0.13	0.02	0.41

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
72090	TC	X-RAY EXAM OF TRUNK SPINE	0.00	0.69	0.04	0.73
72100	26	X-RAY EXAM OF LOWER SPINE	0.21	0.10	0.02	0.33
72100	TC	X-RAY EXAM OF LOWER SPINE	0.00	0.69	0.04	0.73
72110	26	X-RAY EXAM OF LOWER SPINE	0.30	0.15	0.02	0.47
72110	TC	X-RAY EXAM OF LOWER SPINE	0.00	0.93	0.06	0.99
72114	26	X-RAY EXAM OF LOWER SPINE	0.34	0.17	0.03	0.54
72114	TC	X-RAY EXAM OF LOWER SPINE	0.00	1.19	0.07	1.26
72120	26	X-RAY EXAM OF LOWER SPINE	0.21	0.10	0.02	0.33
72120	TC	X-RAY EXAM OF LOWER SPINE	0.00	0.90	0.06	0.96
72125	26	CAT SCAN OF NECK SPINE	1.12	0.55	0.08	1.75
72125	TC	CAT SCAN OF NECK SPINE	0.00	6.63	0.42	7.05
72126	26	CONTRAST CAT SCAN OF NECK	1.18	0.58	0.08	1.84
72126	TC	CONTRAST CAT SCAN OF NECK	0.00	7.96	0.50	8.46
72127	26	CONTRAST CAT SCANS OF NECK	1.23	0.60	0.09	1.92
72127	TC	CONTRAST CAT SCANS OF NECK	0.00	9.95	0.62	10.57
72128	26	CAT SCAN OF THORAX SPINE	1.12	0.55	0.08	1.75
72128	TC	CAT SCAN OF THORAX SPINE	0.00	6.63	0.42	7.05
72129	26	CONTRAST CAT SCAN OF THORAX	1.18	0.58	0.08	1.84
72129	TC	CONTRAST CAT SCAN OF THORAX	0.00	7.96	0.50	8.46
72130	26	CONTRAST CAT SCANS OF THORAX	1.23	0.60	0.09	1.92
72130	TC	CONTRAST CAT SCANS OF THORAX	0.00	9.95	0.62	10.57
72131	26	CAT SCAN OF LOWER SPINE	1.12	0.55	0.08	1.75
72131	TC	CAT SCAN OF LOWER SPINE	0.00	6.63	0.42	7.05
72132	26	CONTRAST CAT OF LOWER SPINE	1.18	0.58	0.08	1.84
72132	TC	CONTRAST CAT OF LOWER SPINE	0.00	7.96	0.50	8.46
72133	26	CONTRAST CAT SCANS, LOW SPINE	1.23	0.60	0.09	1.92
72133	TC	CONTRAST CAT SCANS, LOW SPINE	0.00	9.95	0.62	10.57
72141	26	MAGNETIC IMAGE, NECK SPINE	1.56	0.76	0.11	2.43
72141	TC	MAGNETIC IMAGE, NECK SPINE	0.00	12.60	0.79	13.39
72142	26	MAGNETIC IMAGE, NECK SPINE	1.87	0.91	0.13	2.91
72142	TC	MAGNETIC IMAGE, NECK SPINE	0.00	15.12	0.95	16.07
72147	26	MAGNETIC IMAGE, CHEST SPINE	1.87	0.91	0.13	2.91
72147	TC	MAGNETIC IMAGE, CHEST SPINE	0.00	15.12	0.95	16.07
72149	26	MAGNETIC IMAGE, LUMBAR SPINE	1.72	0.84	0.12	2.68
72149	TC	MAGNETIC IMAGE, LUMBAR SPINE	0.00	15.12	0.95	16.07
72170	26	X-RAY EXAM OF PELVIS	0.16	0.08	0.01	0.25
72170	TC	X-RAY EXAM OF PELVIS	0.00	0.53	0.03	0.56
72190	26	X-RAY EXAM OF PELVIS	0.20	0.10	0.01	0.31
72190	TC	X-RAY EXAM OF PELVIS	0.00	0.69	0.04	0.73
72192	26	CAT SCAN OF PELVIS	1.05	0.51	0.07	1.63
72192	TC	CAT SCAN OF PELVIS	0.00	6.63	0.42	7.05
72193	26	CONTRAST CAT SCAN OF PELVIS	1.12	0.55	0.08	1.75
72193	TC	CONTRAST CAT SCAN OF PELVIS	0.00	7.69	0.48	8.17
72194	26	CONTRAST CAT SCANS OF PELVIS	1.18	0.58	0.08	1.84
72194	TC	CONTRAST CAT SCANS OF PELVIS	0.00	9.55	0.60	10.15
72196	26	MAGNETIC IMAGE, PELVIS	1.56	0.76	0.11	2.43
72196	TC	MAGNETIC IMAGE, PELVIS	0.00	12.60	0.79	13.39
72200	26	X-RAY EXAM SACROILIAC JOINTS	0.17	0.08	0.01	0.26
72200	TC	X-RAY EXAM SACROILIAC JOINTS	0.00	0.53	0.03	0.56
72202	26	X-RAY EXAM SACROILIAC JOINTS	0.19	0.09	0.01	0.29
72202	TC	X-RAY EXAM SACROILIAC JOINTS	0.00	0.63	0.04	0.67
72220	26	X-RAY EXAM OF TAILBONE	0.17	0.08	0.01	0.26
72220	TC	X-RAY EXAM OF TAILBONE	0.00	0.58	0.03	0.61
72240	26	CONTRAST X-RAY OF NECK SPINE	0.88	0.43	0.06	1.37
72240	TC	CONTRAST X-RAY OF NECK SPINE	0.00	4.79	0.30	5.09
72255	26	CONTRAST X-RAY THORAX SPINE	0.88	0.43	0.06	1.37
72255	TC	CONTRAST X-RAY THORAX SPINE	0.00	4.38	0.28	4.66

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
72265	26	CONTRAST X-RAY LOWER SPINE	0.80	0.39	0.06	1.25
72265	TC	CONTRAST X-RAY LOWER SPINE	0.00	4.11	0.26	4.37
72270	26	CONTRAST X-RAY OF SPINE	1.29	0.63	0.09	2.01
72270	TC	CONTRAST X-RAY OF SPINE	0.00	6.17	0.39	6.56
72285	26	X-RAY OF NECK SPINE DISK	0.80	0.39	0.06	1.25
72285	TC	X-RAY OF NECK SPINE DISK	0.00	8.49	0.53	9.02
72295	26	X-RAY OF LOWER SPINE DISK	0.80	0.39	0.06	1.25
72295	TC	X-RAY OF LOWER SPINE DISK	0.00	7.96	0.50	8.46
73000	26	X-RAY EXAM OF COLLARBONE	0.15	0.07	0.01	0.23
73000	TC	X-RAY EXAM OF COLLARBONE	0.00	0.53	0.03	0.56
73010	26	X-RAY EXAM OF SHOULDER BLADE	0.16	0.08	0.01	0.25
73010	TC	X-RAY EXAM OF SHOULDER BLADE	0.00	0.53	0.03	0.56
73020	26	X-RAY EXAM OF SHOULDER	0.14	0.07	0.01	0.22
73020	TC	X-RAY EXAM OF SHOULDER	0.00	0.48	0.03	0.51
73030	26	X-RAY EXAM OF SHOULDER	0.17	0.08	0.01	0.26
73030	TC	X-RAY EXAM OF SHOULDER	0.00	0.58	0.03	0.61
73040	26	CONTRAST X-RAY OF SHOULDER	0.54	0.26	0.04	0.84
73040	TC	CONTRAST X-RAY OF SHOULDER	0.00	2.12	0.13	2.25
73050	26	X-RAY EXAM OF SHOULDERS	0.19	0.09	0.01	0.29
73050	TC	X-RAY EXAM OF SHOULDERS	0.00	0.89	0.04	0.73
73060	26	X-RAY EXAM OF HUMERUS	0.16	0.09	0.01	0.25
73060	TC	X-RAY EXAM OF HUMERUS	0.00	0.58	0.03	0.61
73070	26	X-RAY EXAM OF ELBOW	0.14	0.07	0.01	0.22
73070	TC	X-RAY EXAM OF ELBOW	0.00	0.53	0.03	0.56
73080	26	X-RAY EXAM OF ELBOW	0.17	0.08	0.01	0.26
73080	TC	X-RAY EXAM OF ELBOW	0.00	0.58	0.03	0.61
73085	26	CONTRAST X-RAY OF ELBOW	0.54	0.26	0.04	0.84
73085	TC	CONTRAST X-RAY OF ELBOW	0.00	2.12	0.13	2.25
73090	26	X-RAY EXAM OF FOREARM	0.15	0.07	0.01	0.23
73090	TC	X-RAY EXAM OF FOREARM	0.00	0.53	0.03	0.56
73092	26	X-RAY EXAM OF ARM, INFANT	0.14	0.07	0.01	0.22
73092	TC	X-RAY EXAM OF ARM, INFANT	0.00	0.50	0.03	0.53
73100	26	X-RAY EXAM OF WRIST	0.14	0.07	0.01	0.22
73100	TC	X-RAY EXAM OF WRIST	0.00	0.50	0.03	0.53
73110	26	X-RAY EXAM OF WRIST	0.17	0.08	0.01	0.26
73110	TC	X-RAY EXAM OF WRIST	0.00	0.56	0.03	0.59
73115	26	CONTRAST X-RAY OF WRIST	0.54	0.26	0.04	0.84
73115	TC	CONTRAST X-RAY OF WRIST	0.00	1.59	0.10	1.69
73120	26	X-RAY EXAM OF HAND	0.14	0.07	0.01	0.22
73120	TC	X-RAY EXAM OF HAND	0.00	0.50	0.03	0.53
73130	26	X-RAY EXAM OF HAND	0.17	0.08	0.01	0.26
73130	TC	X-RAY EXAM OF HAND	0.00	0.56	0.03	0.59
73140	26	X-RAY EXAM OF FINGER(S)	0.12	0.06	0.01	0.19
73140	TC	X-RAY EXAM OF FINGER(S)	0.00	0.42	0.03	0.45
73200	26	CAT SCAN OF ARM	1.05	0.51	0.07	1.63
73200	TC	CAT SCAN OF ARM	0.00	5.57	0.35	5.92
73201	26	CONTRAST CAT SCAN OF ARM	1.12	0.55	0.08	1.75
73201	TC	CONTRAST CAT SCAN OF ARM	0.00	6.63	0.42	7.05
73202	26	CONTRAST CAT SCANS OF ARM	1.18	0.56	0.08	1.84
73202	TC	CONTRAST CAT SCANS OF ARM	0.00	6.35	0.52	6.87
73220	26	MAGNETIC IMAGE, ARM, HAND	1.43	0.70	0.10	2.23
73220	TC	MAGNETIC IMAGE, ARM, HAND	0.00	12.60	0.79	13.39
73221	26	MAGNETIC IMAGE, JOINT OF ARM	0.92	0.45	0.06	1.43
73221	TC	MAGNETIC IMAGE, JOINT OF ARM	0.00	12.60	0.79	13.39
73500	26	X-RAY EXAM OF HIP	0.16	0.08	0.01	0.25
73500	TC	X-RAY EXAM OF HIP	0.00	0.48	0.03	0.51
73510	26	X-RAY EXAM OF HIP	0.20	0.10	0.01	0.31

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
73510	TC	X-RAY EXAM OF HIP	0.00	0.58	0.03	0.61
73520	26	X-RAY EXAM OF HIPS	0.25	0.12	0.02	0.39
73520	TC	X-RAY EXAM OF HIPS	0.00	0.69	0.04	0.73
73525	26	CONTRAST X-RAY OF HIP	0.54	0.26	0.04	0.84
73525	TC	CONTRAST X-RAY OF HIP	0.00	2.12	0.13	2.25
73530	26	X-RAY EXAM OF HIP	0.28	0.14	0.02	0.44
73530	TC	X-RAY EXAM OF HIP	0.00	0.53	0.03	0.56
73540	26	X-RAY EXAM OF PELVIS & HIPS	0.20	0.10	0.01	0.31
73540	TC	X-RAY EXAM OF PELVIS & HIPS	0.00	0.58	0.03	0.61
73550	26	X-RAY EXAM OF THIGH	0.17	0.08	0.01	0.26
73550	TC	X-RAY EXAM OF THIGH	0.00	0.58	0.03	0.61
73560	26	X-RAY EXAM OF KNEE	0.15	0.07	0.01	0.23
73560	TC	X-RAY EXAM OF KNEE	0.00	0.53	0.03	0.56
73562	26	X-RAY EXAM OF KNEE	0.18	0.09	0.01	0.28
73562	TC	X-RAY EXAM OF KNEE	0.00	0.58	0.03	0.61
73564	26	X-RAY EXAM OF KNEE	0.21	0.10	0.02	0.33
73564	TC	X-RAY EXAM OF KNEE	0.00	0.63	0.04	0.67
73565	26	RADIOLOGIC EXAMINATION, KNEE;	0.15	0.07	0.01	0.23
73565	TC	RADIOLOGIC EXAMINATION, KNEE;	0.00	0.50	0.03	0.53
73580	26	CONTRAST X-RAY OF KNEE JOINT	0.54	0.26	0.04	0.84
73580	TC	CONTRAST X-RAY OF KNEE JOINT	0.00	2.65	0.17	2.82
73590	26	X-RAY EXAM OF LOWER LEG	0.15	0.07	0.01	0.23
73590	TC	X-RAY EXAM OF LOWER LEG	0.00	0.53	0.03	0.56
73592	26	X-RAY EXAM OF LEG, INFANT	0.14	0.07	0.01	0.22
73592	TC	X-RAY EXAM OF LEG, INFANT	0.00	0.50	0.03	0.53
73600	26	X-RAY EXAM OF ANKLE	0.14	0.07	0.01	0.22
73600	TC	X-RAY EXAM OF ANKLE	0.00	0.50	0.03	0.53
73610	26	X-RAY EXAM OF ANKLE	0.17	0.08	0.01	0.26
73610	TC	X-RAY EXAM OF ANKLE	0.00	0.56	0.03	0.59
73615	26	CONTRAST X-RAY OF ANKLE	0.54	0.26	0.04	0.84
73615	TC	CONTRAST X-RAY OF ANKLE	0.00	2.12	0.13	2.25
73620	26	X-RAY EXAM OF FOOT	0.14	0.07	0.01	0.22
73620	TC	X-RAY EXAM OF FOOT	0.00	0.50	0.03	0.53
73630	26	X-RAY EXAM OF FOOT	0.17	0.08	0.01	0.26
73630	TC	X-RAY EXAM OF FOOT	0.00	0.56	0.03	0.59
73650	26	X-RAY EXAM OF HEEL	0.14	0.07	0.01	0.22
73650	TC	X-RAY EXAM OF HEEL	0.00	0.48	0.03	0.51
73660	26	X-RAY EXAM OF TOE(S)	0.12	0.06	0.01	0.19
73660	TC	X-RAY EXAM OF TOE(S)	0.00	0.42	0.03	0.45
73700	26	CAT SCAN OF LEG	1.05	0.51	0.07	1.63
73700	TC	CAT SCAN OF LEG	0.00	5.57	0.35	5.92
73701	26	CONTRAST CAT SCAN OF LEG	1.12	0.55	0.08	1.75
73701	TC	CONTRAST CAT SCAN OF LEG	0.00	6.63	0.42	7.05
73702	26	CONTRAST CAT SCANS OF LEG	1.18	0.58	0.08	1.84
73702	TC	CONTRAST CAT SCANS OF LEG	0.00	8.35	0.52	8.87
73720	26	MAGNETIC IMAGE, LEG, FOOT	1.43	0.70	0.10	2.23
73720	TC	MAGNETIC IMAGE, LEG, FOOT	0.00	12.60	0.79	13.39
73721	26	MAGNETIC IMAGE, JOINT OF LEG	0.92	0.45	0.06	1.43
73721	TC	MAGNETIC IMAGE, JOINT OF LEG	0.00	12.60	0.79	13.39
74000	26	X-RAY EXAM OF ABDOMEN	0.17	0.09	0.01	0.27
74000	TC	X-RAY EXAM OF ABDOMEN	0.00	0.53	0.03	0.56
74010	26	X-RAY EXAM OF ABDOMEN	0.22	0.11	0.02	0.35
74010	TC	X-RAY EXAM OF ABDOMEN	0.00	0.58	0.03	0.61
74020	26	X-RAY EXAM OF ABDOMEN	0.28	0.13	0.02	0.41
74020	TC	X-RAY EXAM OF ABDOMEN	0.00	0.63	0.04	0.67
74022	26	X-RAY EXAM SERIES, ABDOMEN	0.30	0.15	0.02	0.47
74022	TC	X-RAY EXAM SERIES, ABDOMEN	0.00	0.74	0.05	0.79

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
74150	26	CAT SCAN OF ABDOMEN	1.15	0.56	0.08	1.79
74150	TC	CAT SCAN OF ABDOMEN	0.00	6.37	0.40	6.77
74160	26	CONTRAST CAT SCAN OF ABDOMEN	1.23	0.60	0.09	1.92
74160	TC	CONTRAST CAT SCAN OF ABDOMEN	0.00	7.69	0.48	8.17
74170	26	CONTRAST CAT SCANS, ABDOMEN	1.38	0.67	0.10	2.13
74170	TC	CONTRAST CAT SCANS, ABDOMEN	0.00	9.55	0.60	10.15
74181	26	MAGNETIC IMAGE, ABDOMEN	1.56	0.76	0.11	2.43
74181	TC	MAGNETIC IMAGE, ABDOMEN	0.00	12.60	0.79	13.39
74210	26	CONTRAST XRAY EXAM OF THROAT	0.33	0.17	0.03	0.53
74210	TC	CONTRAST XRAY EXAM OF THROAT	0.00	1.19	0.07	1.26
74220	26	CONTRAST XRAY EXAM, ESOPHAGUS	0.45	0.22	0.03	0.70
74220	TC	CONTRAST XRAY EXAM, ESOPHAGUS	0.00	1.19	0.07	1.26
74230	26	CINEMA XRAY THROAT/ESOPHAGUS	0.52	0.26	0.04	0.82
74230	TC	CINEMA XRAY THROAT/ESOPHAGUS	0.00	1.32	0.08	1.40
74235	26	REMOVE ESOPHAGUS OBSTRUCTION	1.15	0.56	0.08	1.79
74235	TC	REMOVE ESOPHAGUS OBSTRUCTION	0.00	2.65	0.17	2.82
74240	26	X-RAY EXAM UPPER GI TRACT	0.67	0.33	0.05	1.05
74240	TC	X-RAY EXAM UPPER GI TRACT	0.00	1.49	0.09	1.58
74241	26	X-RAY EXAM UPPER GI TRACT	0.67	0.33	0.05	1.05
74241	TC	X-RAY EXAM UPPER GI TRACT	0.00	1.51	0.10	1.61
74245	26	X-RAY EXAM UPPER GI TRACT	0.88	0.43	0.06	1.37
74245	TC	X-RAY EXAM UPPER GI TRACT	0.00	2.42	0.15	2.57
74246	26	CONTRAST XRAY UPPER GI TRACT	0.67	0.33	0.05	1.05
74246	TC	CONTRAST XRAY UPPER GI TRACT	0.00	1.67	0.10	1.77
74247	26	CONTRAST XRAY UPPER GI TRACT	0.67	0.33	0.05	1.05
74247	TC	CONTRAST XRAY UPPER GI TRACT	0.00	1.70	0.10	1.80
74249	26	CONTRAST XRAY UPPER GI TRACT	0.88	0.43	0.06	1.37
74249	TC	CONTRAST XRAY UPPER GI TRACT	0.00	2.60	0.16	2.76
74250	26	X-RAY EXAM OF SMALL BOWEL	0.46	0.23	0.03	0.72
74250	TC	X-RAY EXAM OF SMALL BOWEL	0.00	1.32	0.08	1.40
74260	26	X-RAY EXAM OF SMALL BOWEL	0.49	0.24	0.03	0.76
74260	TC	X-RAY EXAM OF SMALL BOWEL	0.00	1.51	0.10	1.61
74270	26	CONTRAST X-RAY EXAM OF COLON	0.67	0.33	0.05	1.05
74270	TC	CONTRAST X-RAY EXAM OF COLON	0.00	1.72	0.11	1.83
74280	26	CONTRAST X-RAY EXAM OF COLON	0.96	0.47	0.07	1.50
74280	TC	CONTRAST X-RAY EXAM OF COLON	0.00	2.25	0.14	2.39
74283	26	CONTRAST X-RAY EXAM OF COLON	1.95	0.96	0.14	3.05
74283	TC	CONTRAST X-RAY EXAM OF COLON	0.00	2.59	0.16	2.75
74290	26	CONTRAST X-RAY, GALLBLADDER	0.30	0.15	0.02	0.47
74290	TC	CONTRAST X-RAY, GALLBLADDER	0.00	0.74	0.05	0.79
74291	26	CONTRAST X-RAYS, GALLBLADDER	0.19	0.10	0.01	0.30
74291	TC	CONTRAST X-RAYS, GALLBLADDER	0.00	0.42	0.03	0.45
74300	26	X-RAY BILE DUCTS, PANCREAS	0.35	0.17	0.03	0.55
74301	26	ADDITIONAL X-RAYS AT SURGERY	0.20	0.10	0.01	0.31
74305	26	X-RAY BILE DUCTS, PANCREAS	0.41	0.20	0.03	0.64
74305	TC	X-RAY BILE DUCTS, PANCREAS	0.00	0.80	0.05	0.85
74320	26	CONTRAST X-RAY OF BILE DUCTS	0.54	0.26	0.04	0.84
74320	TC	CONTRAST X-RAY OF BILE DUCTS	0.00	3.18	0.20	3.38
74327	26	X-RAY FOR BILE STONE REMOVAL	0.68	0.33	0.05	1.06
74327	TC	X-RAY FOR BILE STONE REMOVAL	0.00	1.78	0.11	1.89
74328	26	XRAY FOR BILE DUCT ENDOSCOPY	0.68	0.33	0.05	1.06
74328	TC	XRAY FOR BILE DUCT ENDOSCOPY	0.00	3.18	0.20	3.38
74329	26	X-RAY FOR PANCREAS ENDOSCOPY	0.68	0.33	0.05	1.06
74329	TC	X-RAY FOR PANCREAS ENDOSCOPY	0.00	3.18	0.20	3.38
74330	26	XRAY, BILE/PANCREAS ENDOSCOPY	0.68	0.33	0.05	1.06
74330	TC	XRAY, BILE/PANCREAS ENDOSCOPY	0.00	3.18	0.20	3.38
74340	26	X-RAY GUIDE FOR GI TUBE	0.54	0.26	0.04	0.84

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
74340	TC	X-RAY GUIDE FOR GI TUBE	0.00	2.65	0.17	2.82
74350	26	X-RAY GUIDE, STOMACH TUBE	0.74	0.36	0.05	1.15
74350	TC	X-RAY GUIDE, STOMACH TUBE	0.00	3.18	0.20	3.38
74351	26	X-RAY GUIDE, STOMACH TUBE	3.99	1.96	0.28	6.23
74351	TC	X-RAY GUIDE, STOMACH TUBE	0.00	2.65	0.17	2.82
74355	26	X-RAY GUIDE, INTESTINAL TUBE	0.74	0.36	0.05	1.15
74355	TC	X-RAY GUIDE, INTESTINAL TUBE	0.00	2.65	0.17	2.82
74356	26	X-RAY GUIDE, INTESTINAL TUBE	3.99	1.96	0.28	6.23
74356	TC	X-RAY GUIDE, INTESTINAL TUBE	0.00	2.65	0.17	2.82
74360	26	X-RAY GUIDE, GI DILATION	0.54	0.26	0.04	0.84
74360	TC	X-RAY GUIDE, GI DILATION	0.00	3.18	0.20	3.38
74361	26	X-RAY GUIDE, GI DILATION	3.95	1.94	0.28	6.17
74361	TC	X-RAY GUIDE, GI DILATION	0.00	3.18	0.20	3.38
74400	26	CONTRAST X-RAY URINARY TRACT	0.48	0.23	0.03	0.74
74400	TC	CONTRAST X-RAY URINARY TRACT	0.00	1.70	0.10	1.80
74405	26	CONTRAST X-RAY URINARY TRACT	0.48	0.23	0.03	0.74
74405	TC	CONTRAST X-RAY URINARY TRACT	0.00	2.02	0.13	2.15
74410	26	CONTRAST X-RAY URINARY TRACT	0.48	0.23	0.03	0.74
74410	TC	CONTRAST X-RAY URINARY TRACT	0.00	1.97	0.12	2.09
74415	26	CONTRAST X-RAY URINARY TRACT	0.48	0.23	0.03	0.74
74415	TC	CONTRAST X-RAY URINARY TRACT	0.00	2.15	0.14	2.29
74420	26	CONTRAST X-RAY URINARY TRACT	0.33	0.17	0.03	0.53
74420	TC	CONTRAST X-RAY URINARY TRACT	0.00	2.65	0.17	2.82
74425	26	CONTRAST X-RAY URINARY TRACT	0.33	0.17	0.03	0.53
74425	TC	CONTRAST X-RAY URINARY TRACT	0.00	1.32	0.08	1.40
74430	26	CONTRAST X-RAY OF BLADDER	0.30	0.15	0.02	0.47
74430	TC	CONTRAST X-RAY OF BLADDER	0.00	1.06	0.07	1.13
74440	26	XRAY EXAM MALE GENITAL TRACT	0.36	0.17	0.03	0.56
74440	TC	XRAY EXAM MALE GENITAL TRACT	0.00	1.14	0.07	1.21
74445	26	X-RAY EXAM OF PENIS	1.10	0.54	0.08	1.72
74445	TC	X-RAY EXAM OF PENIS	0.00	1.14	0.07	1.21
74450	26	X-RAY EXAM URETHRA/BLADDER	0.31	0.15	0.02	0.48
74450	TC	X-RAY EXAM URETHRA/BLADDER	0.00	1.49	0.09	1.58
74455	26	X-RAY EXAM URETHRA/BLADDER	0.31	0.15	0.02	0.48
74455	TC	X-RAY EXAM URETHRA/BLADDER	0.00	1.59	0.10	1.69
74470	26	X-RAY EXAM OF KIDNEY LESION	0.54	0.26	0.04	0.84
74470	TC	X-RAY EXAM OF KIDNEY LESION	0.00	1.27	0.08	1.35
74475	26	XRAY CONTROL CATHETER INSERT	0.54	0.26	0.04	0.84
74475	TC	XRAY CONTROL CATHETER INSERT	0.00	4.11	0.26	4.37
74480	26	XRAY CONTROL CATHETER INSERT	0.54	0.26	0.04	0.84
74480	TC	XRAY CONTROL CATHETER INSERT	0.00	4.11	0.26	4.37
74485	26	X-RAY GUIDE, GU DILATION	0.54	0.26	0.04	0.84
74485	TC	X-RAY GUIDE, GU DILATION	0.00	3.18	0.20	3.38
74486	26	X-RAY GUIDE, GU DILATION	5.02	2.46	0.35	7.84
74486	TC	X-RAY GUIDE, GU DILATION	0.00	3.18	0.20	3.38
74710	26	X-RAY MEASUREMENT OF PELVIS	0.32	0.16	0.02	0.50
74710	TC	X-RAY MEASUREMENT OF PELVIS	0.00	1.06	0.07	1.13
74740	26	X-RAY FEMALE GENITAL TRACT	0.36	0.17	0.03	0.56
74740	TC	X-RAY FEMALE GENITAL TRACT	0.00	1.32	0.08	1.40
74775	26	X-RAY EXAM OF PERINEUM	0.61	0.30	0.04	0.95
74775	TC	X-RAY EXAM OF PERINEUM	0.00	1.49	0.09	1.58
75500	26	CINEMA X-RAY HEART VESSELS	1.10	0.54	0.08	1.72
75500	TC	CINEMA X-RAY HEART VESSELS	0.00	11.68	0.73	12.41
75505	26	X-RAY EXAM OF HEART VESSELS	1.10	0.54	0.08	1.72
75505	TC	X-RAY EXAM OF HEART VESSELS	0.00	11.68	0.73	12.41
75507	26	X-RAY EXAM OF HEART VESSELS	1.27	0.62	0.09	1.98
75507	TC	X-RAY EXAM OF HEART VESSELS	0.00	11.68	0.73	12.41

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
75519	26	HEART X-RAY/CATHETERIZATION	0.81	0.40	0.06	1.27
75519	TC	HEART X-RAY/CATHETERIZATION	0.00	11.68	0.73	12.41
75523	26	HEART X-RAY/CATHETERIZATION	0.81	0.40	0.06	1.27
75523	TC	HEART X-RAY/CATHETERIZATION	0.00	11.68	0.73	12.41
75527	26	HEART X-RAY/CATHETERIZATION	1.45	0.71	0.10	2.26
75527	TC	HEART X-RAY/CATHETERIZATION	0.00	11.68	0.73	12.41
75552	26	MAGNETIC IMAGE, MYOCARDIUM	1.58	0.76	0.11	2.43
75552	TC	MAGNETIC IMAGE, MYOCARDIUM	0.00	12.60	0.79	13.39
75600	26	CONTRAST X-RAY EXAM OF AORTA	0.48	0.23	0.03	0.74
75600	TC	CONTRAST X-RAY EXAM OF AORTA	0.00	12.75	0.80	13.55
75605	26	CONTRAST X-RAY EXAM OF AORTA	1.10	0.54	0.08	1.72
75605	TC	CONTRAST X-RAY EXAM OF AORTA	0.00	12.75	0.80	13.55
75625	26	CONTRAST X-RAY EXAM OF AORTA	1.10	0.54	0.08	1.72
75625	TC	CONTRAST X-RAY EXAM OF AORTA	0.00	12.75	0.80	13.55
75627	26	CONTRAST X-RAY EXAM OF AORTA	1.10	0.54	0.08	1.72
75627	TC	CONTRAST X-RAY EXAM OF AORTA	0.00	12.75	0.80	13.55
75630	26	X-RAY AORTA, LEG ARTERIES	1.27	0.62	0.09	1.98
75630	TC	X-RAY AORTA, LEG ARTERIES	0.00	13.29	0.83	14.12
75650	26	ARTERY X-RAYS, HEAD & NECK	1.44	0.70	0.10	2.24
75650	TC	ARTERY X-RAYS, HEAD & NECK	0.00	12.75	0.80	13.55
75652	26	ARTERY X-RAYS, HEAD & NECK	1.44	0.70	0.10	2.24
75652	TC	ARTERY X-RAYS, HEAD & NECK	0.00	12.75	0.80	13.55
75654	26	ARTERY X-RAYS, HEAD & NECK	1.94	0.95	0.14	3.03
75654	TC	ARTERY X-RAYS, HEAD & NECK	0.00	12.75	0.80	13.55
75656	26	ARTERY X-RAYS, HEAD & NECK	2.44	1.20	0.17	3.81
75656	TC	ARTERY X-RAYS, HEAD & NECK	0.00	13.84	0.87	14.71
75658	26	X-RAY EXAM OF ARM ARTERIES	1.27	0.62	0.09	1.98
75658	TC	X-RAY EXAM OF ARM ARTERIES	0.00	12.75	0.80	13.55
75660	26	ARTERY X-RAYS, HEAD & NECK	1.27	0.62	0.09	1.98
75660	TC	ARTERY X-RAYS, HEAD & NECK	0.00	12.75	0.80	13.55
75662	26	ARTERY X-RAYS, HEAD & NECK	1.61	0.79	0.11	2.51
75662	TC	ARTERY X-RAYS, HEAD & NECK	0.00	12.75	0.80	13.55
75665	26	ARTERY X-RAYS, HEAD & NECK	1.27	0.62	0.09	1.98
75665	TC	ARTERY X-RAYS, HEAD & NECK	0.00	12.75	0.80	13.55
75671	26	ARTERY X-RAYS, HEAD & NECK	1.61	0.79	0.11	2.51
75671	TC	ARTERY X-RAYS, HEAD & NECK	0.00	12.75	0.80	13.55
75676	26	ARTERY X-RAYS, NECK	1.27	0.62	0.09	1.98
75676	TC	ARTERY X-RAYS, NECK	0.00	12.75	0.80	13.55
75680	26	ARTERY X-RAYS, NECK	1.61	0.79	0.11	2.51
75680	TC	ARTERY X-RAYS, NECK	0.00	12.75	0.80	13.55
75685	26	ARTERY X-RAYS, SPINE	1.27	0.62	0.09	1.98
75685	TC	ARTERY X-RAYS, SPINE	0.00	12.75	0.80	13.55
75690	26	ARTERY X-RAYS, NECK SPINE	1.27	0.62	0.09	1.98
75690	TC	ARTERY X-RAYS, NECK SPINE	0.00	12.75	0.80	13.55
75695	26	ARTERY X-RAYS, NECK SPINE	1.61	0.79	0.11	2.51
75695	TC	ARTERY X-RAYS, NECK SPINE	0.00	12.75	0.80	13.55
75705	26	ARTERY X-RAYS, SPINE	2.11	1.03	0.15	3.29
75705	TC	ARTERY X-RAYS, SPINE	0.00	12.75	0.80	13.55
75710	26	ARTERY X-RAYS, ARM/LEG	1.10	0.54	0.08	1.72
75710	TC	ARTERY X-RAYS, ARM/LEG	0.00	12.75	0.80	13.55
75716	26	ARTERY X-RAYS, ARMS/LEGS	1.27	0.62	0.09	1.98
75716	TC	ARTERY X-RAYS, ARMS/LEGS	0.00	12.75	0.80	13.55
75718	26	ARTERY X-RAYS, ARMS/LEGS	4.07	2.00	0.29	6.36
75718	TC	ARTERY X-RAYS, ARMS/LEGS	0.00	12.75	0.80	13.55
75722	26	ARTERY X-RAYS, KIDNEY	1.10	0.54	0.08	1.72
75722	TC	ARTERY X-RAYS, KIDNEY	0.00	12.75	0.80	13.55
75724	26	ARTERY X-RAYS, KIDNEYS	1.44	0.70	0.10	2.24

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
75724	TC	ARTERY X-RAYS, KIDNEYS	0.00	12.75	0.80	13.55
75726	26	ARTERY X-RAYS, ABDOMEN	1.10	0.54	0.08	1.72
75726	TC	ARTERY X-RAYS, ABDOMEN	0.00	12.75	0.80	13.55
75731	26	ARTERY X-RAYS, ADRENAL GLAND	1.10	0.54	0.08	1.72
75731	TC	ARTERY X-RAYS, ADRENAL GLAND	0.00	12.75	0.80	13.55
75733	26	ARTERY X-RAYS,ADRENAL GLANDS	1.27	0.62	0.09	1.98
75733	TC	ARTERY X-RAYS,ADRENAL GLANDS	0.00	12.75	0.80	13.55
75736	26	ARTERY X-RAYS, PELVIS	1.10	0.54	0.08	1.72
75736	TC	ARTERY X-RAYS, PELVIS	0.00	12.75	0.80	13.55
75741	26	ARTERY X-RAYS, LUNG	1.27	0.62	0.09	1.98
75741	TC	ARTERY X-RAYS, LUNG	0.00	12.75	0.80	13.55
75743	26	ARTERY X-RAYS, LUNGS	1.81	0.79	0.11	2.51
75743	TC	ARTERY X-RAYS, LUNGS	0.00	12.75	0.80	13.55
75746	26	ARTERY X-RAYS, LUNG	1.10	0.54	0.08	1.72
75746	TC	ARTERY X-RAYS, LUNG	0.00	12.75	0.80	13.55
75750	26	ARTERY X-RAYS, HEART	1.10	0.54	0.08	1.72
75750	TC	ARTERY X-RAYS, HEART	0.00	12.75	0.80	13.55
75752	26	ARTERY X-RAYS, HEART	1.10	0.54	0.08	1.72
75752	TC	ARTERY X-RAYS, HEART	0.00	12.75	0.80	13.55
75754	26	ARTERY X-RAYS, HEART	1.28	0.63	0.09	2.00
75754	TC	ARTERY X-RAYS, HEART	0.00	12.75	0.80	13.55
75756	26	ARTERY X-RAYS, CHEST	1.10	0.54	0.08	1.72
75756	TC	ARTERY X-RAYS, CHEST	0.00	12.75	0.80	13.55
75762	26	CORONARY BYPASS X-RAY	1.10	0.54	0.08	1.72
75762	TC	CORONARY BYPASS X-RAY	0.00	12.75	0.80	13.55
75766	26	CORONARY BYPASS X-RAY	1.27	0.62	0.09	1.98
75766	TC	CORONARY BYPASS X-RAY	0.00	12.75	0.80	13.55
75774	26	ARTERY X-RAY, EACH VESSEL	0.33	0.17	0.03	0.53
75774	TC	ARTERY X-RAY, EACH VESSEL	0.00	12.75	0.80	13.55
75790	26	VISUALIZE A-V SHUNT	1.78	0.87	0.13	2.78
75790	TC	VISUALIZE A-V SHUNT	0.00	1.37	0.09	1.46
75801	26	LYMPH VESSEL X-RAY, ARM/LEG	0.78	0.38	0.05	1.21
75801	TC	LYMPH VESSEL X-RAY, ARM/LEG	0.00	5.48	0.34	5.82
75803	26	LYMPH VESSEL X-RAY, ARMS/LEGS	1.13	0.55	0.08	1.76
75803	TC	LYMPH VESSEL X-RAY, ARMS/LEGS	0.00	5.48	0.34	5.82
75805	TC	LYMPH VESSEL X-RAY, TRUNK	0.00	6.17	0.39	6.56
75807	26	LYMPH VESSEL X-RAY, TRUNK	1.13	0.55	0.08	1.76
75807	TC	LYMPH VESSEL X-RAY, TRUNK	0.00	6.17	0.39	6.56
75810	26	VEIN X-RAY, SPLEEN/LIVER	1.10	0.54	0.08	1.72
75810	TC	VEIN X-RAY, SPLEEN/LIVER	0.00	12.75	0.80	13.55
75820	26	VEIN X-RAY, ARM/LEG	0.68	0.33	0.05	1.06
75820	TC	VEIN X-RAY, ARM/LEG	0.00	0.98	0.08	1.02
75822	26	VEIN X-RAY, ARMS/LEGS	1.02	0.50	0.07	1.59
75822	TC	VEIN X-RAY, ARMS/LEGS	0.00	1.50	0.10	1.60
75825	26	VEIN X-RAY, TRUNK	1.10	0.54	0.08	1.72
75825	TC	VEIN X-RAY, TRUNK	0.00	12.75	0.80	13.55
75827	26	VEIN X-RAY, CHEST	1.10	0.54	0.08	1.72
75827	TC	VEIN X-RAY, CHEST	0.00	12.75	0.80	13.55
75831	26	VEIN X-RAY, KIDNEY	1.10	0.54	0.08	1.72
75831	TC	VEIN X-RAY, KIDNEY	0.00	12.75	0.80	13.55
75833	26	VEIN X-RAY, KIDNEYS	1.44	0.70	0.10	2.24
75833	TC	VEIN X-RAY, KIDNEYS	0.00	12.75	0.80	13.55
75840	26	VEIN X-RAY, ADRENAL GLAND	1.10	0.54	0.08	1.72
75840	TC	VEIN X-RAY, ADRENAL GLAND	0.00	12.75	0.80	13.55
75842	26	VEIN X-RAY, ADRENAL GLANDS	1.44	0.70	0.10	2.24
75842	TC	VEIN X-RAY, ADRENAL GLANDS	0.00	12.75	0.80	13.55
75860	26	VEIN X-RAY, NECK	1.10	0.54	0.08	1.72

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL (continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL-PRACTICE RVUS	TOTAL RVUS
75860	TC	VEIN X-RAY, NECK	0.00	12.75	0.80	13.55
75870	26	VEIN X-RAY, SKULL	1.10	0.54	0.08	1.72
75870	TC	VEIN X-RAY, SKULL	0.00	12.75	0.80	13.55
75872	26	VEIN X-RAY, SKULL	1.10	0.54	0.08	1.72
75872	TC	VEIN X-RAY, SKULL	0.00	12.75	0.80	13.55
75880	26	VEIN X-RAY, EYE SOCKET	0.68	0.33	0.05	1.06
75880	TC	VEIN X-RAY, EYE SOCKET	0.00	0.96	0.06	1.02
75885	26	VEIN X-RAY, LIVER	1.40	0.69	0.10	2.19
75885	TC	VEIN X-RAY, LIVER	0.00	12.75	0.80	13.55
75887	26	VEIN X-RAY, LIVER	1.40	0.69	0.10	2.19
75887	TC	VEIN X-RAY, LIVER	0.00	12.75	0.80	13.55
75889	26	VEIN X-RAY, LIVER	1.10	0.54	0.08	1.72
75889	TC	VEIN X-RAY, LIVER	0.00	12.75	0.80	13.55
75891	26	VEIN X-RAY, LIVER	1.10	0.54	0.08	1.72
75891	TC	VEIN X-RAY, LIVER	0.00	12.75	0.80	13.55
75893	26	VENOUS SAMPLING BY CATHETER	0.54	0.26	0.04	0.84
75893	TC	VENOUS SAMPLING BY CATHETER	0.00	12.75	0.80	13.55
75894	26	X-RAYS, TRANSCATHETER THERAPY	1.27	0.62	0.09	1.98
75894	TC	X-RAYS, TRANSCATHETER THERAPY	0.00	24.43	1.53	25.96
75896	26	X-RAYS, TRANSCATHETER THERAPY	1.27	0.62	0.09	1.98
75896	TC	X-RAYS, TRANSCATHETER THERAPY	0.00	21.24	1.33	22.57
75898	26	FOLLOW-UP ANGIOGRAM	1.80	0.79	0.11	2.50
75898	TC	FOLLOW-UP ANGIOGRAM	0.00	1.06	0.07	1.13
75940	26	X-RAY PLACEMENT, VEIN FILTER	0.54	0.26	0.04	0.84
75940	TC	X-RAY PLACEMENT, VEIN FILTER	0.00	12.75	0.80	13.55
75950	26	VASCULAR BLOCK, TEMPORARY	1.27	0.62	0.09	1.98
75950	TC	VASCULAR BLOCK, TEMPORARY	0.00	24.43	1.53	25.96
75955	26	VASCULAR BLOCK, PERMANENT	1.27	0.62	0.09	1.98
75955	TC	VASCULAR BLOCK, PERMANENT	0.00	24.43	1.53	25.96
75961	26	RETRIEVAL, BROKEN CATHETER	4.12	2.02	0.29	6.43
75961	TC	RETRIEVAL, BROKEN CATHETER	0.00	10.62	0.67	11.29
75962	26	REPAIR ARTERIAL BLOCKAGE	0.54	0.26	0.04	0.84
75962	TC	REPAIR ARTERIAL BLOCKAGE	0.00	15.93	1.00	16.93
75964	26	REPAIR ARTERY BLOCKAGE, EACH	0.33	0.17	0.03	0.53
75964	TC	REPAIR ARTERY BLOCKAGE, EACH	0.00	8.50	0.53	9.03
75966	26	REPAIR ARTERIAL BLOCKAGE	1.27	0.62	0.09	1.98
75966	TC	REPAIR ARTERIAL BLOCKAGE	0.00	15.93	1.00	16.93
75968	26	REPAIR ARTERY BLOCKAGE, EACH	0.33	0.17	0.03	0.53
75968	TC	REPAIR ARTERY BLOCKAGE, EACH	0.00	8.50	0.53	9.03
75970	26	VASCULAR BIOPSY	0.80	0.39	0.06	1.25
75970	TC	VASCULAR BIOPSY	0.00	11.68	0.73	12.41
75978	26	REPAIR VENOUS BLOCKAGE	0.54	0.26	0.04	0.84
75980	26	CONTRAST XRAY EXAM BILE DUCT	1.40	0.69	0.10	2.19
75980	TC	CONTRAST XRAY EXAM BILE DUCT	0.00	5.48	0.34	5.82
75982	26	CONTRAST XRAY EXAM BILE DUCT	1.40	0.69	0.10	2.19
75982	TC	CONTRAST XRAY EXAM BILE DUCT	0.00	6.17	0.39	6.56
75984	26	XRAY CONTROL CATHETER CHANGE	0.70	0.34	0.05	1.09
75984	TC	XRAY CONTROL CATHETER CHANGE	0.00	1.97	0.12	2.09
75989	26	ABSCESS DRAINAGE UNDER X-RAY	1.16	0.57	0.08	1.81
75989	TC	ABSCESS DRAINAGE UNDER X-RAY	0.00	3.18	0.20	3.38
75990	26	ABSCESS DRAINAGE UNDER X-RAY	5.04	2.47	0.38	7.87
75990	TC	ABSCESS DRAINAGE UNDER X-RAY	0.00	3.18	0.20	3.38
76000	26	FLUOROSCOPE EXAMINATION	0.15	0.07	0.01	0.23
76000	TC	FLUOROSCOPE EXAMINATION	0.00	1.32	0.08	1.40
76001	26	FLUOROSCOPE EXAM, EXTENSIVE	0.66	0.32	0.05	1.03
76001	TC	FLUOROSCOPE EXAM, EXTENSIVE	0.00	2.65	0.17	2.82
76003	26	NEEDLE LOCALIZATION BY X-RAY	0.54	0.26	0.04	0.84

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL (continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
76003	TC	NEEDLE LOCALIZATION BY X-RAY	0.00	1.32	0.08	1.40
76010	26	X-RAY, NOSE TO RECTUM	0.17	0.09	0.01	0.27
76010	TC	X-RAY, NOSE TO RECTUM	0.00	0.53	0.03	0.56
76020	26	X-RAYS FOR BONE AGE	0.19	0.09	0.01	0.29
76020	TC	X-RAYS FOR BONE AGE	0.00	0.53	0.03	0.56
76040	26	X-RAYS, BONE EVALUATION	0.26	0.13	0.02	0.41
76040	TC	X-RAYS, BONE EVALUATION	0.00	0.80	0.05	0.85
76061	26	X-RAYS, BONE SURVEY	0.43	0.21	0.03	0.67
76061	TC	X-RAYS, BONE SURVEY	0.00	1.01	0.06	1.07
76062	26	X-RAYS, BONE SURVEY	0.54	0.26	0.04	0.84
76062	TC	X-RAYS, BONE SURVEY	0.00	1.46	0.09	1.55
76065	26	X-RAYS, BONE EVALUATION	0.26	0.13	0.02	0.41
76065	TC	X-RAYS, BONE EVALUATION	0.00	0.74	0.05	0.79
76066	26	JOINT(S) SURVEY, SINGLE FILM	0.30	0.15	0.02	0.47
76066	TC	JOINT(S) SURVEY, SINGLE FILM	0.00	1.11	0.07	1.18
76070	26	CT SCAN, BONE DENSITY STUDY	0.24	0.12	0.02	0.38
76070	TC	CT SCAN, BONE DENSITY STUDY	0.00	3.32	0.21	3.53
76080	26	X-RAY EXAM OF FISTULA	0.54	0.26	0.04	0.84
76080	TC	X-RAY EXAM OF FISTULA	0.00	1.06	0.07	1.13
76086	26	X-RAY OF MAMMARY DUCT	0.35	0.17	0.03	0.55
76086	TC	X-RAY OF MAMMARY DUCT	0.00	2.65	0.17	2.82
76088	26	X-RAY OF MAMMARY DUCTS	0.43	0.21	0.03	0.67
76088	TC	X-RAY OF MAMMARY DUCTS	0.00	3.71	0.23	3.94
76090	26	X-RAY EXAM OF BREAST	0.24	0.12	0.02	0.38
76090	TC	X-RAY EXAM OF BREAST	0.00	1.06	0.07	1.13
76091	26	X-RAY EXAM OF BREASTS	0.39	0.19	0.03	0.61
76091	TC	X-RAY EXAM OF BREASTS	0.00	1.32	0.08	1.40
76096	26	X-RAY EXAM, BREAST NODULE	0.95	0.47	0.07	1.49
76096	TC	X-RAY EXAM, BREAST NODULE	0.00	2.65	0.17	2.82
76097	26	X-RAY EXAM, BREAST NODULE	0.54	0.26	0.04	0.84
76097	TC	X-RAY EXAM, BREAST NODULE	0.00	1.06	0.07	1.13
76098	26	X-RAY EXAM, BREAST SPECIMEN	0.14	0.07	0.01	0.22
76098	TC	X-RAY EXAM, BREAST SPECIMEN	0.00	0.42	0.03	0.45
76100	26	X-RAY EXAM OF BODY SECTION	0.57	0.28	0.04	0.89
76100	TC	X-RAY EXAM OF BODY SECTION	0.00	1.27	0.08	1.35
76101	26	COMPLEX BODY SECTION X-RAY	0.57	0.26	0.04	0.89
76101	TC	COMPLEX BODY SECTION X-RAY	0.00	1.43	0.09	1.52
76102	26	COMPLEX BODY SECTION X-RAYS	0.57	0.26	0.04	0.89
76102	TC	COMPLEX BODY SECTION X-RAYS	0.00	1.75	0.11	1.86
76120	26	CINEMATIC X-RAYS	0.36	0.18	0.03	0.57
76120	TC	CINEMATIC X-RAYS	0.00	1.06	0.07	1.13
76125	26	CINEMATIC X-RAYS	0.25	0.12	0.02	0.39
76125	TC	CINEMATIC X-RAYS	0.00	0.80	0.05	0.85
76150	TC	X-RAY EXAM, DRY PROCESS	0.00	0.42	0.03	0.45
76355	26	CAT SCAN FOR LOCALIZATION	1.17	0.56	0.08	1.83
76355	TC	CAT SCAN FOR LOCALIZATION	0.00	9.28	0.58	9.86
76360	26	CAT SCAN FOR NEEDLE BIOPSY	1.12	0.55	0.08	1.75
76360	TC	CAT SCAN FOR NEEDLE BIOPSY	0.00	9.28	0.58	9.86
76365	26	CAT SCAN FOR CYST ASPIRATION	1.12	0.55	0.08	1.75
76365	TC	CAT SCAN FOR CYST ASPIRATION	0.00	9.28	0.58	9.86
76370	26	CAT SCAN FOR THERAPY GUIDE	0.83	0.41	0.06	1.30
76370	TC	CAT SCAN FOR THERAPY GUIDE	0.00	3.32	0.21	3.53
76375	26	CAT SCANS, OTHER PLANES	0.14	0.07	0.01	0.22
76375	TC	CAT SCANS, OTHER PLANES	0.00	3.98	0.25	4.23
76400	26	MAGNETIC IMAGE, BONE MARROW	1.56	0.76	0.11	2.43
76400	TC	MAGNETIC IMAGE, BONE MARROW	0.00	12.60	0.79	13.39
76506	26	ECHO EXAM OF HEAD	0.62	0.30	0.04	0.96

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
76506	TC	ECHO EXAM OF HEAD	0.00	1.43	0.09	1.52
76511	26	ECHO EXAM OF EYE	0.54	0.26	0.04	0.84
76511	TC	ECHO EXAM OF EYE	0.00	1.27	0.08	1.35
76512	26	ECHO EXAM OF EYE	0.64	0.32	0.04	1.00
76512	TC	ECHO EXAM OF EYE	0.00	1.54	0.10	1.64
76513	26	ECHO EXAM OF EYE, WATER BATH	0.64	0.32	0.04	1.00
76513	TC	ECHO EXAM OF EYE, WATER BATH	0.00	1.54	0.10	1.64
76516	26	ECHO EXAM OF EYE	0.53	0.26	0.04	0.83
76516	TC	ECHO EXAM OF EYE	0.00	1.27	0.08	1.35
76519	26	ECHO EXAM OF EYE	0.53	0.26	0.04	0.83
76519	TC	ECHO EXAM OF EYE	0.00	1.27	0.08	1.35
76529	26	ECHO EXAM OF EYE	0.57	0.26	0.04	0.89
76529	TC	ECHO EXAM OF EYE	0.00	1.38	0.09	1.47
76538	26	ECHO EXAM OF HEAD AND NECK	0.55	0.27	0.04	0.86
76538	TC	ECHO EXAM OF HEAD AND NECK	0.00	1.43	0.09	1.52
76604	26	ECHO EXAM OF CHEST	0.55	0.27	0.04	0.86
76604	TC	ECHO EXAM OF CHEST	0.00	1.32	0.08	1.40
76645	26	ECHO EXAM OF BREAST	0.53	0.26	0.04	0.83
76645	TC	ECHO EXAM OF BREAST	0.00	1.08	0.07	1.13
76700	26	ECHO EXAM OF ABDOMEN	0.78	0.38	0.05	1.21
76700	TC	ECHO EXAM OF ABDOMEN	0.00	1.99	0.12	2.11
76705	26	ECHO EXAM OF ABDOMEN	0.58	0.28	0.04	0.90
76705	TC	ECHO EXAM OF ABDOMEN	0.00	1.43	0.09	1.52
76770	26	ECHO EXAM ABDOMEN BACK WALL	0.72	0.35	0.05	1.12
76770	TC	ECHO EXAM ABDOMEN BACK WALL	0.00	1.99	0.12	2.11
76775	26	ECHO EXAM ABDOMEN BACK WALL	0.57	0.28	0.04	0.89
76775	TC	ECHO EXAM ABDOMEN BACK WALL	0.00	1.43	0.09	1.52
76778	26	ECHO EXAM KIDNEY TRANSPLANT	0.72	0.35	0.05	1.12
76778	TC	ECHO EXAM KIDNEY TRANSPLANT	0.00	1.99	0.12	2.11
76800	26	ECHO EXAM SPINAL CANAL	1.09	0.53	0.08	1.70
76800	TC	ECHO EXAM SPINAL CANAL	0.00	1.43	0.09	1.52
76805	26	ECHO EXAM OF PREGNANT UTERUS	0.98	0.47	0.07	1.50
76805	TC	ECHO EXAM OF PREGNANT UTERUS	0.00	2.12	0.13	2.25
76815	26	ECHO EXAM OF PREGNANT UTERUS	0.83	0.31	0.04	0.98
76815	TC	ECHO EXAM OF PREGNANT UTERUS	0.00	1.43	0.09	1.52
76816	26	ECHO EXAM FOLLOWUP OR REPEAT	0.57	0.28	0.04	0.89
76816	TC	ECHO EXAM FOLLOWUP OR REPEAT	0.00	1.11	0.07	1.18
76818	26	FETAL BIOPHYSICAL PROFILE	0.74	0.37	0.05	1.16
76818	TC	FETAL BIOPHYSICAL PROFILE	0.00	1.64	0.10	1.74
76825	26	ECHO EXAM OF FETAL HEART	0.74	0.36	0.05	1.15
76825	TC	ECHO EXAM OF FETAL HEART	0.00	1.99	0.12	2.11
76830	26	ECHO EXAM, TRANSVAGINAL	0.67	0.33	0.05	1.05
76830	TC	ECHO EXAM, TRANSVAGINAL	0.00	1.54	0.10	1.64
76855	26	ECHO EXAM OF PELVIS	0.59	0.29	0.04	0.92
76855	TC	ECHO EXAM OF PELVIS	0.00	1.43	0.09	1.52
76856	26	ECHO EXAM OF PELVIS	0.67	0.33	0.05	1.05
76856	TC	ECHO EXAM OF PELVIS	0.00	1.54	0.10	1.64
76857	26	ECHO EXAM OF PELVIS	0.36	0.17	0.03	0.56
76857	TC	ECHO EXAM OF PELVIS	0.00	1.08	0.07	1.13
76870	26	ECHO EXAM OF SCROTUM	0.62	0.30	0.04	0.96
76870	TC	ECHO EXAM OF SCROTUM	0.00	1.54	0.10	1.64
76872	26	ECHO EXAM OF PROSTATE	0.67	0.33	0.05	1.05
76872	TC	ECHO EXAM OF PROSTATE	0.00	1.54	0.10	1.64
76880	26	ECHO EXAM OF EXTREMITY	0.58	0.26	0.04	0.90
76880	TC	ECHO EXAM OF EXTREMITY	0.00	1.43	0.09	1.52
76925	26	ECHO EXAM OF BLOOD FLOW	0.72	0.35	0.05	1.12
76925	TC	ECHO EXAM OF BLOOD FLOW	0.00	1.64	0.10	1.74

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL (continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL-PRACTICE RVUS	TOTAL RVUS
76926	26	ECHO EXAM OF HEAD & TRUNK	0.72	0.35	0.05	1.12
76926	TC	ECHO EXAM OF HEAD & TRUNK	0.00	1.64	0.10	1.74
76930	26	ECHO GUIDE FOR HEART SAC TAP	0.65	0.32	0.04	1.01
76930	TC	ECHO GUIDE FOR HEART SAC TAP	0.00	1.54	0.10	1.64
76932	26	ECHO GUIDE FOR HEART BIOPSY	0.65	0.32	0.04	1.01
76932	TC	ECHO GUIDE FOR HEART BIOPSY	0.00	1.54	0.10	1.64
76933	TC	ECHO GUIDE FOR HEART BIOPSY	0.00	1.54	0.10	1.64
76934	26	ECHO GUIDE FOR CHEST TAP	0.65	0.32	0.04	1.01
76934	TC	ECHO GUIDE FOR CHEST TAP	0.00	1.54	0.10	1.64
76938	26	ECHO EXAM FOR DRAINAGE	0.65	0.32	0.04	1.01
76938	TC	ECHO EXAM FOR DRAINAGE	0.00	1.54	0.10	1.64
76942	26	ECHO GUIDE FOR BIOPSY	0.65	0.32	0.04	1.01
76942	TC	ECHO GUIDE FOR BIOPSY	0.00	1.54	0.10	1.64
76946	26	ECHO GUIDE FOR AMNIOCENTESIS	0.36	0.17	0.03	0.56
76946	TC	ECHO GUIDE FOR AMNIOCENTESIS	0.00	1.54	0.10	1.64
76948	26	ECHO GUIDE, OVA ASPIRATION	0.36	0.17	0.03	0.56
76948	TC	ECHO GUIDE, OVA ASPIRATION	0.00	1.54	0.10	1.64
76950	26	ECHO GUIDANCE RADIOTHERAPY	0.57	0.28	0.04	0.89
76950	TC	ECHO GUIDANCE RADIOTHERAPY	0.00	1.32	0.08	1.40
76960	26	ECHO GUIDANCE RADIOTHERAPY	0.57	0.28	0.04	0.89
76960	TC	ECHO GUIDANCE RADIOTHERAPY	0.00	1.32	0.08	1.40
76970	26	ULTRASOUND EXAM FOLLOW-UP	0.38	0.19	0.03	0.60
76970	TC	ULTRASOUND EXAM FOLLOW-UP	0.00	1.06	0.07	1.13
76986	26	ECHO EXAM AT SURGERY	1.17	0.57	0.08	1.82
76986	TC	ECHO EXAM AT SURGERY	0.00	2.65	0.17	2.82
77261	26	RADIATION THERAPY PLANNING	1.35	0.86	0.10	2.11
77262	26	RADIATION THERAPY PLANNING	2.04	1.00	0.14	3.18
77263	26	RADIATION THERAPY PLANNING	3.04	1.49	0.22	4.75
77260	26	SET RADIATION THERAPY FIELD	0.68	0.33	0.05	1.06
77260	TC	SET RADIATION THERAPY FIELD	0.00	3.08	0.19	3.27
77265	26	SET RADIATION THERAPY FIELD	1.01	0.50	0.07	1.58
77265	TC	SET RADIATION THERAPY FIELD	0.00	4.94	0.31	5.25
77290	26	SET RADIATION THERAPY FIELD	1.51	0.74	0.11	2.36
77290	TC	SET RADIATION THERAPY FIELD	0.00	5.76	0.38	6.12
77300	26	RADIATION THERAPY DOSE PLAN	0.61	0.30	0.04	0.95
77300	TC	RADIATION THERAPY DOSE PLAN	0.00	1.19	0.07	1.26
77305	26	RADIATION THERAPY DOSE PLAN	0.68	0.33	0.05	1.06
77305	TC	RADIATION THERAPY DOSE PLAN	0.00	1.64	0.10	1.74
77310	26	RADIATION THERAPY DOSE PLAN	1.01	0.50	0.07	1.58
77310	TC	RADIATION THERAPY DOSE PLAN	0.00	2.08	0.13	2.19
77315	26	RADIATION THERAPY DOSE PLAN	1.51	0.74	0.11	2.36
77315	TC	RADIATION THERAPY DOSE PLAN	0.00	2.35	0.15	2.50
77321	26	RADIATION THERAPY PORT PLAN	0.92	0.45	0.06	1.43
77321	TC	RADIATION THERAPY PORT PLAN	0.00	3.57	0.23	3.80
77326	26	RADIATION THERAPY DOSE PLAN	0.90	0.44	0.06	1.40
77326	TC	RADIATION THERAPY DOSE PLAN	0.00	2.10	0.13	2.23
77327	26	RADIATION THERAPY DOSE PLAN	1.35	0.66	0.10	2.11
77327	TC	RADIATION THERAPY DOSE PLAN	0.00	3.08	0.19	3.27
77328	26	RADIATION THERAPY DOSE PLAN	2.02	0.99	0.14	3.15
77328	TC	RADIATION THERAPY DOSE PLAN	0.00	4.40	0.28	4.68
77331	26	SPECIAL RADIATION DOSIMETRY	0.85	0.42	0.06	1.33
77331	TC	SPECIAL RADIATION DOSIMETRY	0.00	0.45	0.03	0.48
77332	26	RADIATION TREATMENT AID(S)	0.53	0.26	0.04	0.83
77332	TC	RADIATION TREATMENT AID(S)	0.00	1.19	0.07	1.26
77333	26	RADIATION TREATMENT AID(S)	0.81	0.40	0.06	1.27
77333	TC	RADIATION TREATMENT AID(S)	0.00	1.65	0.10	1.78
77334	26	RADIATION TREATMENT AID(S)	1.20	0.59	0.09	1.88

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
77334	TC	RADIATION TREATMENT AID(S)	0.00	2.88	0.18	3.06
77336	TC	RADIATION PHYSICS CONSULTATION	0.00	2.64	0.17	2.81
77370	TC	RADIATION PHYSICS CONSULTATION	0.00	3.10	0.19	3.29
77401	TC	RADIATION TREATMENT DELIVERY	0.00	1.57	0.10	1.67
77402	TC	RADIATION TREATMENT DELIVERY	0.00	1.57	0.10	1.67
77403	TC	RADIATION TREATMENT DELIVERY	0.00	1.57	0.10	1.67
77404	TC	RADIATION TREATMENT DELIVERY	0.00	1.57	0.10	1.67
77406	TC	RADIATION TREATMENT DELIVERY	0.00	1.57	0.10	1.67
77407	TC	RADIATION TREATMENT DELIVERY	0.00	1.86	0.12	1.98
77408	TC	RADIATION TREATMENT DELIVERY	0.00	1.86	0.12	1.98
77409	TC	RADIATION TREATMENT DELIVERY	0.00	1.86	0.12	1.98
77411	TC	RADIATION TREATMENT DELIVERY	0.00	1.86	0.12	1.98
77412	TC	RADIATION TREATMENT DELIVERY	0.00	2.05	0.13	2.18
77413	TC	RADIATION TREATMENT DELIVERY	0.00	2.05	0.13	2.18
77414	TC	RADIATION TREATMENT DELIVERY	0.00	2.05	0.13	2.18
77416	TC	RADIATION TREATMENT DELIVERY	0.00	2.05	0.13	2.18
77417	TC	THERAPEUTIC RADIOLOGY PT FILMS	0.00	0.53	0.03	0.56
77420	26	WEEKLY RADIATION THERAPY	1.56	0.77	0.11	2.44
77425	26	WEEKLY RADIATION THERAPY	2.36	1.16	0.17	3.69
77430	26	WEEKLY RADIATION THERAPY	3.49	1.71	0.25	5.45
77431	26	RADIATION THERAPY MANAGEMENT	1.75	0.66	0.12	2.73
77431	TC	RADIATION THERAPY MANAGEMENT	0.00	5.15	0.32	5.47
77470	26	SPECIAL RADIATION TREATMENT	2.02	0.99	0.14	3.15
77470	TC	SPECIAL RADIATION TREATMENT	0.00	9.87	0.62	10.49
77600	26	HYPERTHERMIA TREATMENT	1.51	0.74	0.11	2.36
77600	TC	HYPERTHERMIA TREATMENT	0.00	3.08	0.19	3.27
77605	26	HYPERTHERMIA TREATMENT	2.02	0.99	0.14	3.15
77605	TC	HYPERTHERMIA TREATMENT	0.00	4.11	0.26	4.37
77610	26	HYPERTHERMIA TREATMENT	1.51	0.74	0.11	2.36
77610	TC	HYPERTHERMIA TREATMENT	0.00	3.08	0.19	3.27
77615	26	HYPERTHERMIA TREATMENT	2.02	0.99	0.14	3.15
77615	TC	HYPERTHERMIA TREATMENT	0.00	4.11	0.26	4.37
77620	26	HYPERTHERMIA TREATMENT	1.51	0.74	0.11	2.36
77620	TC	HYPERTHERMIA TREATMENT	0.00	3.08	0.19	3.27
77750	26	INFUSE RADIOACTIVE MATERIALS	4.44	2.18	0.31	6.93
77750	TC	INFUSE RADIOACTIVE MATERIALS	0.00	1.35	0.09	1.44
77761	26	RADIOELEMENT APPLICATION	3.45	1.69	0.24	5.38
77761	TC	RADIOELEMENT APPLICATION	0.00	2.22	0.14	2.36
77762	26	RADIOELEMENT APPLICATION	5.18	2.54	0.37	8.09
77762	TC	RADIOELEMENT APPLICATION	0.00	3.21	0.20	3.41
77763	26	RADIOELEMENT APPLICATION	7.76	3.81	0.55	12.12
77763	TC	RADIOELEMENT APPLICATION	0.00	3.99	0.25	4.24
77776	26	RADIOELEMENT APPLICATION	4.51	2.21	0.32	7.04
77776	TC	RADIOELEMENT APPLICATION	0.00	2.20	0.14	2.34
77777	26	RADIOELEMENT APPLICATION	6.77	3.32	0.48	10.57
77777	TC	RADIOELEMENT APPLICATION	0.00	4.28	0.27	4.55
77778	26	RADIOELEMENT APPLICATION	10.14	4.87	0.72	15.83
77778	TC	RADIOELEMENT APPLICATION	0.00	5.18	0.32	5.50
77781	26	REMOTE AFTERLOADING HIGH INTSY	1.50	0.74	0.10	2.34
77781	TC	REMOTE AFTERLOADING HIGH INTSY	0.00	20.56	1.29	21.85
77782	26	REMOTE AFTERLOADING HIGH INTSY	2.26	1.11	0.16	3.53
77782	TC	REMOTE AFTERLOADING HIGH INTSY	0.00	20.56	1.29	21.85
77783	26	REMOTE AFTERLOADING HIGH INTSY	3.38	1.66	0.24	5.28
77783	TC	REMOTE AFTERLOADING HIGH INTSY	0.00	20.56	1.29	21.85
77784	26	REMOTE AFTERLOADING HIGH INTSY	5.07	2.49	0.36	7.92
77784	TC	REMOTE AFTERLOADING HIGH INTSY	0.00	20.56	1.29	21.85
77789	26	RADIOELEMENT APPLICATION	1.01	0.50	0.07	1.58

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
77789	TC	RADIOELEMENT APPLICATION	0.00	0.45	0.03	0.48
77790	26	RADIOELEMENT HANDLING	1.01	0.50	0.07	1.58
77790	TC	RADIOELEMENT HANDLING	0.00	0.45	0.03	0.48
78000	26	NUCLEAR EXAM OF THYROID	0.18	0.09	0.01	0.28
78000	TC	NUCLEAR EXAM OF THYROID	0.00	0.98	0.06	1.04
78001	26	NUCLEAR EXAMS OF THYROID	0.25	0.12	0.02	0.39
78001	TC	NUCLEAR EXAMS OF THYROID	0.00	1.32	0.08	1.40
78003	26	SPECIAL THYROID NUCLEAR EXAM	0.31	0.16	0.02	0.49
78003	TC	SPECIAL THYROID NUCLEAR EXAM	0.00	0.98	0.06	1.04
78006	26	THYROID IMAGING, WITH UPTAKE	0.48	0.23	0.03	0.74
78006	TC	THYROID IMAGING, WITH UPTAKE	0.00	2.42	0.15	2.57
78007	26	THYROID IMAGING, WITH UPTAKE	0.50	0.24	0.03	0.77
78007	TC	THYROID IMAGING, WITH UPTAKE	0.00	2.80	0.16	2.76
78010	26	NUCLEAR SCAN OF THYROID	0.38	0.18	0.03	0.59
78010	TC	NUCLEAR SCAN OF THYROID	0.00	1.83	0.11	1.94
78011	26	NUCLEAR SCAN, THYROID FLOW	0.44	0.22	0.03	0.69
78011	TC	NUCLEAR SCAN, THYROID FLOW	0.00	2.44	0.15	2.59
78015	26	NUCLEAR SCAN OF THYROID	0.86	0.32	0.05	1.03
78015	TC	NUCLEAR SCAN OF THYROID	0.00	2.80	0.16	2.76
78016	26	EXTENSIVE THYROID SCAN	0.79	0.39	0.06	1.24
78016	TC	EXTENSIVE THYROID SCAN	0.00	3.53	0.22	3.75
78017	26	MULTIPLE NUCLEAR SCANS	0.84	0.41	0.06	1.31
78017	TC	MULTIPLE NUCLEAR SCANS	0.00	3.77	0.23	4.00
78018	26	WHOLE BODY NUCLEAR SCANS	0.92	0.45	0.06	1.43
78018	TC	WHOLE BODY NUCLEAR SCANS	0.00	5.49	0.34	5.83
78070	26	NUCLEAR SCAN OF PARATHYROID	0.50	0.25	0.03	0.78
78070	TC	NUCLEAR SCAN OF PARATHYROID	0.00	1.83	0.11	1.94
78075	26	NUCLEAR SCAN OF ADRENALS	0.72	0.35	0.05	1.12
78075	TC	NUCLEAR SCAN OF ADRENALS	0.00	5.49	0.34	5.83
78102	26	NUCLEAR SCAN OF BONE MARROW	0.54	0.28	0.04	0.84
78102	TC	NUCLEAR SCAN OF BONE MARROW	0.00	2.07	0.13	2.20
78103	26	NUCLEAR SCAN OF BONE MARROW	0.73	0.36	0.05	1.14
78103	TC	NUCLEAR SCAN OF BONE MARROW	0.00	3.21	0.20	3.41
78104	26	NUCLEAR SCAN OF BONE MARROW	0.77	0.38	0.05	1.20
78104	TC	NUCLEAR SCAN OF BONE MARROW	0.00	4.11	0.26	4.37
78110	26	NUCLEAR EXAM, PLASMA VOLUME	0.18	0.09	0.01	0.28
78110	TC	NUCLEAR EXAM, PLASMA VOLUME	0.00	0.98	0.06	1.02
78111	26	NUCLEAR EXAM, PLASMA VOLUME	0.21	0.10	0.02	0.33
78111	TC	NUCLEAR EXAM, PLASMA VOLUME	0.00	2.60	0.16	2.76
78120	26	NUCLEAR EXAM OF RBC MASS	0.22	0.11	0.02	0.35
78120	TC	NUCLEAR EXAM OF RBC MASS	0.00	1.75	0.11	1.86
78121	26	NUCLEAR EXAM OF RBC MASS	0.30	0.15	0.02	0.47
78121	TC	NUCLEAR EXAM OF RBC MASS	0.00	2.94	0.16	3.12
78122	26	NUCLEAR EXAM, BLOOD VOLUME	0.43	0.21	0.03	0.67
78122	TC	NUCLEAR EXAM, BLOOD VOLUME	0.00	4.67	0.29	4.96
78130	26	RED CELL SURVIVAL EXAM	0.80	0.30	0.04	0.94
78130	TC	RED CELL SURVIVAL EXAM	0.00	2.80	0.18	3.07
78135	26	RED CELL SURVIVAL EXAM	0.82	0.30	0.04	0.96
78135	TC	RED CELL SURVIVAL EXAM	0.00	4.93	0.31	5.24
78140	26	NUCLEAR EXAM, RED BLOOD CELLS	0.60	0.30	0.04	0.94
78140	TC	NUCLEAR EXAM, RED BLOOD CELLS	0.00	3.98	0.25	4.23
78160	26	NUCLEAR EXAM OF PLASMA IRON	0.31	0.15	0.02	0.48
78160	TC	NUCLEAR EXAM OF PLASMA IRON	0.00	3.71	0.23	3.94
78162	26	NUCLEAR EXAM, IRON ABSORPTION	0.43	0.21	0.03	0.67
78162	TC	NUCLEAR EXAM, IRON ABSORPTION	0.00	3.23	0.20	3.43
78170	26	NUCLEAR EXAM, RED CELL IRON	0.40	0.19	0.03	0.62
78170	TC	NUCLEAR EXAM, RED CELL IRON	0.00	5.38	0.34	5.72

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCCPS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
78172	26	NUCLEAR EXAM, TOTAL BODY IRON	0.52	0.26	0.04	0.82
78185	26	NUCLEAR SCAN OF SPLEEN	0.38	0.19	0.03	0.60
78185	TC	NUCLEAR SCAN OF SPLEEN	0.00	2.39	0.15	2.54
78186	26	NUCLEAR SCAN OF SPLEEN	0.45	0.22	0.03	0.70
78186	TC	NUCLEAR SCAN OF SPLEEN	0.00	2.92	0.18	3.10
78190	26	KINETICS, STUDY OF PLATELET	1.05	0.51	0.07	1.63
78190	TC	KINETICS, STUDY OF PLATELET	0.00	5.78	0.36	6.14
78191	26	NUCLEAR EXAM OF PLATELETS	0.60	0.30	0.04	0.94
78191	TC	NUCLEAR EXAM OF PLATELETS	0.00	7.43	0.47	7.90
78192	26	NUCLEAR EXAM, WBC SCAN	0.77	0.38	0.05	1.20
78192	TC	NUCLEAR EXAM, WBC SCAN	0.00	3.45	0.22	3.67
78193	26	NUCLEAR EXAM, WBC SCAN	0.85	0.42	0.06	1.33
78193	TC	NUCLEAR EXAM, WBC SCAN	0.00	9.87	0.62	10.49
78195	26	NUCLEAR SCAN OF LYMPH SYSTEM	0.63	0.34	0.05	1.07
78195	TC	NUCLEAR SCAN OF LYMPH SYSTEM	0.00	4.11	0.26	4.37
78201	26	NUCLEAR SCAN OF LIVER	0.42	0.21	0.03	0.66
78201	TC	NUCLEAR SCAN OF LIVER	0.00	2.39	0.15	2.54
78202	26	NUCLEAR SCAN OF LIVER	0.50	0.25	0.03	0.78
78202	TC	NUCLEAR SCAN OF LIVER	0.00	2.92	0.18	3.10
78205	26	NUCLEAR SCAN OF LIVER (3D)	0.69	0.34	0.05	1.08
78205	TC	NUCLEAR SCAN OF LIVER (3D)	0.00	5.97	0.37	6.34
78215	26	NUCLEAR SCAN, LIVER & SPLEEN	0.48	0.23	0.03	0.74
78215	TC	NUCLEAR SCAN, LIVER & SPLEEN	0.00	2.97	0.19	3.16
78216	26	NUCLEAR SCAN, LIVER/SPLEEN	0.56	0.27	0.04	0.87
78216	TC	NUCLEAR SCAN, LIVER/SPLEEN	0.00	3.53	0.22	3.75
78220	26	NUCLEAR SCAN, LIVER FUNCTION	0.48	0.24	0.03	0.75
78220	TC	NUCLEAR SCAN, LIVER FUNCTION	0.00	3.77	0.23	4.00
78223	26	NUCLEAR SCAN, BILIARY TRACT	0.81	0.40	0.06	1.27
78223	TC	NUCLEAR SCAN, BILIARY TRACT	0.00	3.71	0.23	3.94
78225	26	NUCLEAR SCAN, LIVER/LUNG	0.52	0.26	0.04	0.82
78225	TC	NUCLEAR SCAN, LIVER/LUNG	0.00	4.01	0.25	4.26
78230	26	NUCLEAR SCAN, SALIVARY GLAND	0.44	0.22	0.03	0.69
78230	TC	NUCLEAR SCAN, SALIVARY GLAND	0.00	2.20	0.14	2.34
78231	26	NUCLEAR SCANS, SALIVARY GLAND	0.51	0.25	0.03	0.79
78231	TC	NUCLEAR SCANS, SALIVARY GLAND	0.00	3.21	0.20	3.41
78232	26	NUCLEAR EXAM, SALIVARY GLAND	0.46	0.23	0.03	0.72
78232	TC	NUCLEAR EXAM, SALIVARY GLAND	0.00	3.58	0.23	3.81
78258	26	NUCLEAR IMAGING OF ESOPHAGUS	0.72	0.35	0.05	1.12
78258	TC	NUCLEAR IMAGING OF ESOPHAGUS	0.00	2.92	0.18	3.10
78261	26	NUCLEAR SCAN, GASTRIC MUCOSA	0.67	0.33	0.05	1.05
78261	TC	NUCLEAR SCAN, GASTRIC MUCOSA	0.00	4.14	0.26	4.40
78262	26	GULLET REFLUX NUCLEAR EXAM	0.66	0.32	0.05	1.03
78262	TC	GULLET REFLUX NUCLEAR EXAM	0.00	4.30	0.27	4.57
78264	26	NUCLEAR EXAM, STOMACH	0.76	0.37	0.05	1.18
78264	TC	NUCLEAR EXAM, STOMACH	0.00	4.18	0.26	4.42
78270	26	VIT B-12 ABSORPTION EXAMS	0.20	0.10	0.01	0.31
78270	TC	VIT B-12 ABSORPTION EXAMS	0.00	1.57	0.10	1.67
78271	26	VIT B-12 ABSORPTION EXAMS	0.20	0.10	0.01	0.31
78271	TC	VIT B-12 ABSORPTION EXAMS	0.00	1.67	0.10	1.77
78272	26	VIT B-12 ABSORPTION EXAMS	0.26	0.13	0.02	0.41
78272	TC	VIT B-12 ABSORPTION EXAMS	0.00	2.33	0.15	2.48
78276	26	NUCLEAR EXAM, GI BLOOD LOSS	0.69	0.34	0.05	1.08
78276	TC	NUCLEAR EXAM, GI BLOOD LOSS	0.00	3.23	0.20	3.43
78278	26	NUCLEAR SCAN, GI BLOOD LOSS	0.96	0.47	0.07	1.50
78278	TC	NUCLEAR SCAN, GI BLOOD LOSS	0.00	4.93	0.31	5.24
78280	26	G.I. BLOOD LOSS EXAM	0.36	0.18	0.03	0.57
78280	TC	G.I. BLOOD LOSS EXAM	0.00	3.29	0.21	3.50

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
78282	26	G.I. PROTEIN LOSS EXAM	0.36	0.18	0.03	0.57
78290	26	NUCLEAR SCAN OF BOWEL	0.66	0.33	0.05	1.04
78290	TC	NUCLEAR SCAN OF BOWEL	0.00	3.08	0.19	3.27
78291	26	TEST VENOUS DRAIN, ABDOMEN	0.85	0.42	0.06	1.33
78291	TC	TEST VENOUS DRAIN, ABDOMEN	0.00	3.10	0.19	3.29
78300	26	NUCLEAR SCAN OF BONE	0.61	0.30	0.04	0.95
78300	TC	NUCLEAR SCAN OF BONE	0.00	2.52	0.16	2.68
78305	26	NUCLEAR SCAN OF BONES	0.80	0.39	0.06	1.25
78305	TC	NUCLEAR SCAN OF BONES	0.00	3.71	0.23	3.94
78306	26	NUCLEAR SCAN OF SKELETON	0.83	0.41	0.06	1.30
78306	TC	NUCLEAR SCAN OF SKELETON	0.00	4.32	0.27	4.59
78310	26	BONE BLOOD FLOW SCAN	0.53	0.26	0.04	0.83
78310	TC	BONE BLOOD FLOW SCAN	0.00	1.19	0.07	1.26
78315	26	NUCLEAR SCAN OF BONE	0.98	0.48	0.07	1.53
78315	TC	NUCLEAR SCAN OF BONE	0.00	4.83	0.30	5.13
78320	26	NUCLEAR SCAN OF BONE (3D)	1.00	0.49	0.07	1.56
78320	TC	NUCLEAR SCAN OF BONE (3D)	0.00	5.97	0.37	6.34
78350	26	BONE MINERAL CONTENT STUDY	0.21	0.10	0.02	0.33
78350	TC	BONE MINERAL CONTENT STUDY	0.00	0.77	0.05	0.82
78414	26	NUCLEAR EXAM OF HEART FLOW	0.43	0.21	0.03	0.67
78415	26	NUCLEAR SCAN OF HEART BLOOD	0.45	0.22	0.03	0.70
78415	TC	NUCLEAR SCAN OF HEART BLOOD	0.00	2.73	0.17	2.90
78425	26	NUCLEAR SCAN, HEART MUSCLE	0.38	0.18	0.03	0.59
78425	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	0.80	0.05	0.85
78428	26	NUCLEAR EXAM, HEART SHUNT	0.76	0.37	0.05	1.18
78428	TC	NUCLEAR EXAM, HEART SHUNT	0.00	2.28	0.14	2.42
78435	26	NUCLEAR SCAN OF HEART FLOW	0.48	0.23	0.03	0.74
78435	TC	NUCLEAR SCAN OF HEART FLOW	0.00	3.66	0.23	3.89
78445	26	NUCLEAR SCAN OF BLOOD FLOW	0.48	0.23	0.03	0.74
78445	TC	NUCLEAR SCAN OF BLOOD FLOW	0.00	1.91	0.12	2.03
78455	26	NUCLEAR SCAN OF VEIN CLOT	0.71	0.35	0.05	1.11
78455	TC	NUCLEAR SCAN OF VEIN CLOT	0.00	4.03	0.25	4.28
78457	26	NUCLEAR SCAN VEIN THROMBOSIS	0.74	0.37	0.05	1.16
78457	TC	NUCLEAR SCAN VEIN THROMBOSIS	0.00	2.63	0.17	2.85
78458	26	NUCLEAR SCAN VEIN THROMBOSIS	0.87	0.43	0.06	1.36
78458	TC	NUCLEAR SCAN VEIN THROMBOSIS	0.00	4.06	0.25	4.31
78460	26	NUCLEAR SCAN, HEART MUSCLE	0.84	0.41	0.06	1.31
78460	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	2.39	0.15	2.54
78461	26	NUCLEAR SCAN, HEART MUSCLE	1.19	0.59	0.09	1.87
78461	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	4.77	0.30	5.07
78464	26	NUCLEAR SCAN, HEART MUSCLE	1.05	0.52	0.07	1.64
78464	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	7.16	0.45	7.61
78465	26	NUCLEAR SCAN, HEART MUSCLE	1.41	0.69	0.10	2.20
78465	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	11.94	0.75	12.69
78466	26	NUCLEAR SCAN, HEART MUSCLE	0.67	0.33	0.05	1.05
78466	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	2.65	0.17	2.82
78467	26	NUCLEAR SCAN, HEART MUSCLE	0.72	0.35	0.05	1.12
78467	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	3.18	0.20	3.38
78468	26	NUCLEAR SCAN, HEART MUSCLE	0.77	0.38	0.05	1.20
78468	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	3.71	0.23	3.94
78469	26	NUCLEAR SCAN, HEART MUSCLE	0.89	0.43	0.06	1.38
78469	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	5.30	0.33	5.63
78470	26	NUCLEAR STUDY, HEART OUTPUT	0.43	0.21	0.03	0.67
78470	TC	NUCLEAR STUDY, HEART OUTPUT	0.00	3.74	0.23	3.97
78471	26	NUCLEAR SCAN, HEART MUSCLE	0.95	0.47	0.07	1.49
78471	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	5.30	0.33	5.63
78472	26	NUCLEAR SCAN, HEART MUSCLE	0.95	0.47	0.07	1.49

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
78472	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	5.57	0.35	5.92
78474	26	NUCLEAR SCAN, HEART MUSCLE	1.00	0.49	0.07	1.56
78474	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	6.10	0.38	6.48
78475	26	NUCLEAR SCAN, HEART MUSCLE	1.15	0.56	0.08	1.79
78475	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	9.55	0.60	10.15
78476	26	NUCLEAR SCAN, HEART MUSCLE	1.15	0.56	0.08	1.79
78476	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	10.03	0.63	10.66
78477	26	NUCLEAR SCAN, HEART MUSCLE	1.19	0.59	0.09	1.87
78477	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	10.98	0.69	11.67
78479	26	NUCLEAR SCAN, HEART MUSCLE	1.03	0.50	0.07	1.60
78481	26	NUCLEAR SCAN, HEART MUSCLE	0.95	0.47	0.07	1.49
78481	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	5.30	0.33	5.63
78484	26	NUCLEAR SCAN, HEART MUSCLE	1.00	0.49	0.07	1.56
78484	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	6.10	0.38	6.48
78485	26	NUCLEAR SCAN, HEART MUSCLE	1.15	0.56	0.08	1.79
78485	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	9.55	0.60	10.15
78486	26	NUCLEAR SCAN, HEART MUSCLE	1.15	0.56	0.08	1.79
78486	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	10.03	0.63	10.66
78487	26	NUCLEAR SCAN, HEART MUSCLE	1.19	0.59	0.09	1.87
78487	TC	NUCLEAR SCAN, HEART MUSCLE	0.00	10.98	0.69	11.67
78489	26	NUCLEAR SCAN, HEART MUSCLE	1.03	0.50	0.07	1.60
78580	26	NUCLEAR SCAN OF LUNG	0.71	0.35	0.05	1.11
78580	TC	NUCLEAR SCAN OF LUNG	0.00	3.47	0.22	3.69
78581	26	NUCLEAR SCAN OF LUNG	0.67	0.33	0.05	1.05
78581	TC	NUCLEAR SCAN OF LUNG	0.00	2.42	0.15	2.57
78582	26	NUCLEAR SCAN OF LUNG	0.88	0.43	0.06	1.37
78582	TC	NUCLEAR SCAN OF LUNG	0.00	3.62	0.24	4.08
78584	26	NUCLEAR SCAN OF LUNG	0.96	0.47	0.07	1.50
78584	TC	NUCLEAR SCAN OF LUNG	0.00	3.23	0.20	3.43
78585	26	NUCLEAR SCAN OF LUNG	1.05	0.52	0.07	1.64
78585	TC	NUCLEAR SCAN OF LUNG	0.00	5.70	0.36	6.06
78586	26	NUCLEAR SCAN OF LUNG	0.38	0.19	0.03	0.60
78586	TC	NUCLEAR SCAN OF LUNG	0.00	2.63	0.17	2.80
78587	26	NUCLEAR SCAN OF LUNG	0.48	0.23	0.03	0.74
78587	TC	NUCLEAR SCAN OF LUNG	0.00	2.84	0.18	3.02
78591	26	NUCLEAR SCAN OF LUNG	0.38	0.19	0.03	0.60
78591	TC	NUCLEAR SCAN OF LUNG	0.00	2.89	0.18	3.07
78593	26	NUCLEAR SCAN OF LUNG	0.48	0.23	0.03	0.74
78593	TC	NUCLEAR SCAN OF LUNG	0.00	3.50	0.22	3.72
78594	26	NUCLEAR SCAN OF LUNG	0.52	0.26	0.04	0.82
78594	TC	NUCLEAR SCAN OF LUNG	0.00	5.04	0.31	5.35
78596	26	PULMONARY QUANTITATIVE DIFF	1.23	0.61	0.09	1.93
78596	TC	PULMONARY QUANTITATIVE DIFF	0.00	7.27	0.46	7.73
78600	26	NUCLEAR SCAN OF BRAIN	0.43	0.21	0.03	0.67
78600	TC	NUCLEAR SCAN OF BRAIN	0.00	2.92	0.18	3.10
78601	26	NUCLEAR SCAN OF BRAIN	0.51	0.25	0.03	0.79
78601	TC	NUCLEAR SCAN OF BRAIN	0.00	3.45	0.22	3.67
78605	26	NUCLEAR SCAN OF BRAIN	0.52	0.26	0.04	0.82
78605	TC	NUCLEAR SCAN OF BRAIN	0.00	3.45	0.22	3.67
78606	26	NUCLEAR SCAN OF BRAIN	0.62	0.30	0.04	0.96
78606	TC	NUCLEAR SCAN OF BRAIN	0.00	3.92	0.25	4.17
78607	26	NUCLEAR SCAN OF BRAIN (3D)	1.19	0.59	0.09	1.87
78607	TC	NUCLEAR SCAN OF BRAIN (3D)	0.00	6.63	0.42	7.05
78610	26	NUCLEAR SCAN OF BRAIN	0.28	0.14	0.02	0.44
78610	TC	NUCLEAR SCAN OF BRAIN	0.00	1.59	0.10	1.69
78615	26	CEREBRAL BLOOD FLOW SCAN	0.41	0.20	0.03	0.64
78615	TC	CEREBRAL BLOOD FLOW SCAN	0.00	3.90	0.24	4.14

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPG ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
78630	26	CEREBROSPINAL FLUID SCAN	0.66	0.32	0.05	1.03
78630	TC	CEREBROSPINAL FLUID SCAN	0.00	5.09	0.32	5.41
78635	26	CEREBROSPINAL FLUID SCAN	0.60	0.30	0.04	0.94
78635	TC	CEREBROSPINAL FLUID SCAN	0.00	2.57	0.16	2.73
78645	26	CEREBROSPINAL FLUID SCAN	0.57	0.28	0.04	0.89
78645	TC	CEREBROSPINAL FLUID SCAN	0.00	3.47	0.22	3.69
78650	26	CEREBROSPINAL FLUID SCAN	0.59	0.29	0.04	0.92
78650	TC	CEREBROSPINAL FLUID SCAN	0.00	4.70	0.30	5.00
78652	26	CEREBROSPINAL FLUID SCAN(3D)	0.88	0.43	0.06	1.37
78652	TC	CEREBROSPINAL FLUID SCAN(3D)	0.00	5.97	0.37	6.34
78655	26	NUCLEAR EXAM OF EYE LESION	0.55	0.27	0.04	0.86
78655	TC	NUCLEAR EXAM OF EYE LESION	0.00	5.04	0.31	5.35
78660	26	NUCLEAR EXAM OF TEAR FLOW	0.52	0.26	0.04	0.82
78660	TC	NUCLEAR EXAM OF TEAR FLOW	0.00	2.15	0.14	2.29
78700	26	NUCLEAR SCAN OF KIDNEY	0.43	0.21	0.03	0.67
78700	TC	NUCLEAR SCAN OF KIDNEY	0.00	3.08	0.19	3.27
78701	26	NUCLEAR SCAN OF KIDNEY	0.48	0.23	0.03	0.74
78701	TC	NUCLEAR SCAN OF KIDNEY	0.00	3.61	0.23	3.84
78704	26	NUCLEAR SCAN OF KIDNEY	0.72	0.35	0.05	1.12
78704	TC	NUCLEAR SCAN OF KIDNEY	0.00	4.01	0.25	4.26
78707	26	NUCLEAR SCAN OF KIDNEY	0.91	0.44	0.06	1.41
78707	TC	NUCLEAR SCAN OF KIDNEY	0.00	4.54	0.29	4.83
78710	26	NUCLEAR SCAN OF KIDNEY (3D)	0.84	0.32	0.04	1.00
78710	TC	NUCLEAR SCAN OF KIDNEY (3D)	0.00	5.97	0.37	6.34
78715	26	NUCLEAR EXAM OF KIDNEY	0.29	0.14	0.02	0.45
78715	TC	NUCLEAR EXAM OF KIDNEY	0.00	1.59	0.10	1.69
78725	26	NUCLEAR EXAM OF KIDNEY	0.36	0.17	0.03	0.56
78725	TC	NUCLEAR EXAM OF KIDNEY	0.00	1.80	0.11	1.91
78726	26	NUCLEAR EXAM OF KIDNEY	0.84	0.42	0.06	1.32
78726	TC	NUCLEAR EXAM OF KIDNEY	0.00	2.99	0.19	3.18
78727	26	NUCLEAR EXAM RENAL SURGERY	0.96	0.47	0.07	1.50
78727	TC	NUCLEAR EXAM RENAL SURGERY	0.00	4.03	0.25	4.28
78730	26	NUCLEAR EXAM OF BLADDER	0.33	0.17	0.03	0.53
78730	TC	NUCLEAR EXAM OF BLADDER	0.00	1.49	0.09	1.58
78740	26	NUCLEAR EXAM OF URETER	0.57	0.26	0.04	0.89
78740	TC	NUCLEAR EXAM OF URETER	0.00	2.15	0.14	2.29
78760	26	NUCLEAR SCAN OF TESTES	0.84	0.31	0.04	0.99
78760	TC	NUCLEAR SCAN OF TESTES	0.00	2.70	0.17	2.87
78761	26	SCAN OF TESTES/BLOOD FLOW	0.89	0.34	0.05	1.08
78761	TC	SCAN OF TESTES/BLOOD FLOW	0.00	3.23	0.20	3.43
78800	26	NUCLEAR EXAM OF LESION	0.63	0.31	0.04	0.98
78800	TC	NUCLEAR EXAM OF LESION	0.00	3.45	0.22	3.67
78801	26	NUCLEAR EXAM OF LESIONS	0.76	0.37	0.05	1.18
78801	TC	NUCLEAR EXAM OF LESIONS	0.00	4.27	0.27	4.54
78802	26	NUCLEAR EXAM OF LESIONS	0.84	0.41	0.06	1.31
78802	TC	NUCLEAR EXAM OF LESIONS	0.00	5.60	0.35	5.95
78803	26	NUCLEAR SCAN OF TUMOR (3D)	1.05	0.52	0.07	1.64
78803	TC	NUCLEAR SCAN OF TUMOR (3D)	0.00	6.63	0.42	7.05
78805	26	NUCLEAR EXAM OF ABSCESS	0.66	0.32	0.05	1.03
78805	TC	NUCLEAR EXAM OF ABSCESS	0.00	3.45	0.22	3.67
78806	26	NUCLEAR EXAM OF ABSCESS	0.82	0.40	0.06	1.28
78806	TC	NUCLEAR EXAM OF ABSCESS	0.00	5.60	0.35	5.95
78890	26	AUTOMATED DATA, NUCLEAR MED	0.05	0.03	0.00	0.08
78890	TC	AUTOMATED DATA, NUCLEAR MED	0.00	1.32	0.08	1.40
78891	26	AUTOMATED DATA, NUCLEAR MED	0.10	0.05	0.01	0.16
78891	TC	AUTOMATED DATA, NUCLEAR MED	0.00	2.65	0.17	2.82
79000	26	NUCLEAR THERAPY, THYROID	1.74	0.85	0.12	2.71

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
79000	TC	NUCLEAR THERAPY, THYROID	0.00	2.65	0.17	2.82
79001	26	NUCLEAR THERAPY, THYROID	1.01	0.50	0.07	1.58
79001	TC	NUCLEAR THERAPY, THYROID	0.00	1.32	0.08	1.40
79020	26	NUCLEAR THERAPY, THYROID	1.75	0.86	0.12	2.73
79020	TC	NUCLEAR THERAPY, THYROID	0.00	2.65	0.17	2.82
79030	26	NUCLEAR THERAPY, THYROID	2.03	1.00	0.14	3.17
79030	TC	NUCLEAR THERAPY, THYROID	0.00	2.65	0.17	2.82
79035	26	NUCLEAR THERAPY, THYROID	2.43	1.19	0.17	3.79
79035	TC	NUCLEAR THERAPY, THYROID	0.00	2.65	0.17	2.82
79100	26	NUCLEAR THERAPY, BLOOD	1.28	0.63	0.09	2.00
79100	TC	NUCLEAR THERAPY, BLOOD	0.00	2.65	0.17	2.82
79200	26	RADIONUCLIDE THERAPY	1.93	0.95	0.14	3.02
79200	TC	RADIONUCLIDE THERAPY	0.00	2.65	0.17	2.82
79300	26	RADIONUCLIDE THERAPY	1.55	0.76	0.11	2.42
79400	26	RADIONUCLIDE THERAPY	1.80	0.93	0.13	2.86
79400	TC	RADIONUCLIDE THERAPY	0.00	2.65	0.17	2.82
79420	26	RADIONUCLIDE THERAPY	1.48	0.71	0.10	2.27
79440	26	RADIONUCLIDE THERAPY	1.93	0.95	0.14	3.02
79440	TC	RADIONUCLIDE THERAPY	0.00	2.65	0.17	2.82
80500		LAB PATHOLOGY CONSULTATION	0.32	0.21	0.01	0.54
80502		LAB PATHOLOGY CONSULTATION	1.45	0.31	0.02	1.78
85060	26	BLOOD SMEAR INTERPRETATION	0.40	0.18	0.01	0.59
85060	TC	BLOOD SMEAR INTERPRETATION	0.00	0.08	0.01	0.09
85097		BONE MARROW INTERPRETATION	0.87	0.46	0.03	1.36
85100	26	BONE MARROW EXAMINATION	1.24	1.01	0.07	2.32
85100	TC	BONE MARROW EXAMINATION	0.00	0.37	0.03	0.40
85102		BONE MARROW BIOPSY	0.83	0.80	0.03	1.66
85105		BONE MARROW, INTERPRETATION	0.66	0.44	0.03	1.13
86078		PHYSICIAN BLOOD BANK SERVICE	0.99	0.33	0.02	1.34
88104	26	CYTOPATHOLOGY	0.65	0.23	0.02	0.90
88104	TC	CYTOPATHOLOGY	0.00	0.11	0.01	0.12
88160	26	CYTOPATHOLOGY	0.70	0.17	0.01	0.88
88160	TC	CYTOPATHOLOGY	0.00	0.08	0.01	0.09
88173	26	INTERPRETATION OF SMEAR	1.18	0.46	0.03	1.67
88173	TC	INTERPRETATION OF SMEAR	0.00	0.21	0.01	0.22
88300	26	SURG. PATH, GROSS	0.09	0.11	0.01	0.21
88300	TC	SURG. PATH, GROSS	0.00	0.05	0.00	0.05
88302	26	SURG PATH, GROSS AND MICRO	0.13	0.28	0.02	0.41
88302	TC	SURG PATH, GROSS AND MICRO	0.00	0.12	0.01	0.13
88304	26	SURG PATH, GROSS AND MICRO	0.23	0.35	0.02	0.60
88304	TC	SURG PATH, GROSS AND MICRO	0.00	0.16	0.01	0.17
88305	26	SURG PATH, GROSS AND MICRO	0.79	0.58	0.04	1.39
88305	TC	SURG PATH, GROSS AND MICRO	0.00	0.28	0.02	0.28
88307	26	SURG PATH, GROSS AND MICRO	1.89	0.80	0.05	2.54
88307	TC	SURG PATH, GROSS AND MICRO	0.00	0.38	0.03	0.41
88309	26	SURG PATH, GROSS AND MICRO	2.29	0.99	0.07	3.35
88309	TC	SURG PATH, GROSS AND MICRO	0.00	0.47	0.03	0.50
88311	26	DECALCIFY TISSUE	0.88	0.10	0.01	0.19
88311	TC	DECALCIFY TISSUE	0.00	0.05	0.00	0.05
88312	26	SPECIAL STAINS	0.59	0.13	0.01	0.73
88312	TC	SPECIAL STAINS	0.00	0.08	0.00	0.08
88313	26	SPECIAL STAINS	0.30	0.10	0.01	0.41
88313	TC	SPECIAL STAINS	0.00	0.05	0.00	0.05
88331	26	CONSULTATION DURING SURGERY	1.13	0.80	0.04	1.77
88331	TC	CONSULTATION DURING SURGERY	0.00	0.29	0.02	0.31
88332	26	CONSULTATION DURING SURGERY	0.50	0.29	0.02	0.81
88332	TC	CONSULTATION DURING SURGERY	0.00	0.14	0.01	0.15

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
90801		DIAGNOSTIC INTERVIEW	1.98	0.68	0.08	2.74
90843		INDIVIDUAL PSYCHOTHERAPY	0.83	0.22	0.03	1.08
90844		INDIVIDUAL PSYCHOTHERAPY	1.37	0.40	0.06	1.83
90845	*	MEDICAL PSYCHOANALYSIS	1.43	0.25	0.03	1.71
90846	*	SPECIAL FAMILY THERAPY	1.77	0.47	0.07	2.31
90847		SPECIAL FAMILY THERAPY	1.97	0.32	0.04	2.33
90853		SPECIAL GROUP THERAPY	0.34	0.13	0.02	0.49
90882		PHARMACOLOGY MANAGEMENT	0.86	0.18	0.03	1.07
90870		ELECTROCONVULSIVE THERAPY	1.58	0.53	0.08	2.19
90880		MEDICAL HYPNOTHERAPY	1.08	0.45	0.05	1.58
90887		CONSULTATION WITH FAMILY	1.57	0.30	0.04	1.91
90900		BIOFEEDBACK, ELECTROMYOGRAM	0.95	0.60	0.05	1.60
90935		HEMODIALYSIS, SINGLE EVAL.	0.84	1.40	0.09	2.33
90937		HEMODIALYSIS, REPEATED EVAL.	1.95	2.91	0.18	5.04
90945		DIALYSIS, SINGLE EVALUATION	0.83	1.22	0.08	2.13
90947		DIALYSIS, REPEATED EVAL.	1.79	2.02	0.13	3.94
91000		ESOPHAGEAL INTUBATION	1.05	0.17	0.02	1.24
91010		ESOPHAGUS MOTILITY STUDY	1.76	1.26	0.09	3.11
91011		ESOPHAGUS MOTILITY STUDY	2.11	1.57	0.10	3.78
91012		ESOPHAGUS MOTILITY STUDY	2.04	1.83	0.12	3.99
91020		ESOPHAGOGASTRIC STUDY	2.01	0.94	0.07	3.02
91030		ACID PERFUSION OF ESOPHAGUS	1.28	0.32	0.03	1.63
91032		ESOPHAGUS, ACID REFLUX TEST	1.69	1.20	0.10	2.99
91055		GASTRIC INTUBATION FOR SMEAR	1.36	0.54	0.04	1.94
91060		GASTRIC SALINE LOAD TEST	0.46	0.50	0.03	1.01
91065		BREATH HYDROGEN TEST	0.47	0.62	0.04	1.13
91100		PASS INTESTINE BLEEDING TUBE	1.13	0.50	0.04	1.67
92082		VISUAL FIELD EXAMINATION(S)	0.46	0.50	0.02	0.98
92083		VISUAL FIELD EXAMINATION(S)	0.55	0.85	0.04	1.44
92100		SERIAL TONOMETRY EXAM(S)	0.44	0.26	0.01	0.71
92225		EXTENDED OPHTHALMOSCOPY, NEW	0.82	0.46	0.02	1.10
92235		OPHTHALMOSCOPY/ANGIOGRAPHY	0.59	1.62	0.08	2.29
92280		SPECIAL EYE EVALUATION	0.34	0.84	0.05	1.23
92286		INTERNAL EYE PHOTOGRAPHY	0.70	1.23	0.06	1.99
92311		SPECIAL CONTACT LENS FITTING	0.97	0.89	0.03	1.89
92511		NASOPHARYNGOSCOPY	0.89	0.88	0.09	1.84
92541		SPONTANEOUS NYSTAGMUS TEST	0.43	0.46	0.05	0.94
92547	TC	SUPPLEMENTAL ELECTRICAL TEST	0.00	0.54	0.05	0.59
92552	TC	PURE TONE AUDIOMETRY, AIR	0.00	0.43	0.04	0.47
92553	TC	AUDIOMETRY, AIR & BONE	0.00	0.67	0.07	0.74
92555	TC	SPEECH THRESHOLD AUDIOMETRY	0.00	0.36	0.04	0.40
92556	TC	SPEECH AUDIOMETRY, COMPLETE	0.00	0.56	0.06	0.62
92557	TC	COMPREHENSIVE AUDIOMETRY	0.00	1.17	0.13	1.30
92560	TC	BEKESY AUDIOMETRY, SCREEN	0.00	0.47	0.04	0.51
92561	TC	BEKESY AUDIOMETRY, DIAGNOSIS	0.00	0.84	0.08	0.70
92562	TC	LOUDNESS BALANCE TEST	0.00	0.32	0.03	0.35
92563	TC	TONE DECAY HEARING TEST	0.00	0.33	0.03	0.36
92564	TC	SISI HEARING TEST	0.00	0.39	0.04	0.43
92565	TC	STENGER TEST, PURE TONE	0.00	0.37	0.03	0.40
92566	TC	IMPEDANCE TESTING	0.00	0.57	0.06	0.63
92567	TC	TYMPANOMETRY	0.00	0.47	0.05	0.52
92568	TC	ACOUSTIC REFLEX TESTING	0.00	0.31	0.03	0.34
92569	TC	ACOUSTIC REFLEX DECAY TEST	0.00	0.37	0.04	0.41
92571	TC	FILTERED SPEECH HEARING TEST	0.00	0.36	0.04	0.40
92572	TC	STAGGERED SPONDAIC WORD TEST	0.00	0.11	0.01	0.12
92573	TC	LOMBARD TEST	0.00	0.33	0.04	0.37
92574	TC	SWINGING STORY TEST	0.00	1.11	0.08	1.19

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
92575	TC	SENSORINEURAL ACUITY TEST	0.00	0.30	0.03	0.33
92576	TC	SYNTHETIC SENTENCE TEST	0.00	0.43	0.05	0.48
92577	TC	STENGER TEST, SPEECH	0.00	0.68	0.07	0.75
92578	TC	DELAYED AUDITORY FEEDBACK	0.00	0.54	0.05	0.59
92580	TC	ELECTRODERMAL AUDIOMETRY	0.00	0.63	0.06	0.69
92581	TC	EVOLED RESPONSE AUDIOMETRY	0.00	3.57	0.31	3.88
92582	TC	CONDITIONING PLAY AUDIOMETRY	0.00	0.68	0.07	0.75
92583	TC	SELECT PICTURE AUDIOMETRY	0.00	0.77	0.08	0.85
92584	TC	ELECTROCOCHLEOGRAPHY	0.00	2.26	0.24	2.50
92585	TC	BRAINSTEM EVOLED AUDIOMETRY	0.00	3.25	0.29	3.54
92589	TC	AUDITORY FUNCTION TEST(S)	0.00	0.51	0.05	0.56
92596	TC	EAR PROTECTOR EVALUATION	0.00	0.46	0.05	0.51
92950		HEART/LUNG RESUSCITATION	2.83	2.26	0.17	5.26
92960		HEART ELECTROCONVERSION	3.92	1.92	0.15	5.99
92982		CORONARY ARTERY DILATION	10.29	17.24	1.27	28.80
92984		CORONARY ARTERY DILATION	1.93	5.69	0.43	8.05
93005	TC	ELECTROCARDIOGRAM, TRACING	0.00	0.45	0.03	0.48
93010	26	ELECTROCARDIOGRAM REPORT	0.18	0.16	0.01	0.35
93012	TC	TRANSMISSION OF ECG	0.00	0.77	0.06	0.83
93041	TC	RHYTHM ECG, TRACING	0.00	0.14	0.01	0.15
93042	26	RHYTHM ECG, REPORT	0.18	0.12	0.01	0.29
93202	TC	PHONOCARDIOGRAM & ECG LEAD	0.00	0.82	0.06	0.88
93204	26	PHONOCARDIOGRAM & ECG LEAD	0.44	0.20	0.01	0.65
93325	TC	DOPPLER COLOR FLOW	0.00	2.80	0.23	3.03
93501		RIGHT HEART CATHETERIZATION	4.33	3.85	0.35	8.53
93503		INSERT/PLACE HEART CATHETER	4.48	2.47	0.37	7.32
93505		BIOPSY OF HEART LINING	5.37	3.26	0.30	8.93
93510		LEFT HEART CATHETERIZATION	5.62	4.11	0.30	10.03
93511		LEFT HEART CATHETERIZATION	6.50	2.39	0.18	9.07
93514		LEFT HEART CATHETERIZATION	8.54	4.75	0.39	13.68
93524		LEFT HEART CATHETERIZATION	7.92	4.39	0.31	12.62
93526		RT & LT HEART CATHETERS	6.82	7.11	0.50	14.43
93527		RT & LT HEART CATHETERS	6.27	7.71	0.54	16.52
93529		RT, LT HEART CATHETERIZATION	5.63	8.27	0.60	14.50
93536		INSERT CIRCULATION ASSIST	7.34	7.85	0.71	15.90
93547		HEART CATHETER & ANGIOGRAM	7.11	8.43	0.61	16.15
93549		HEART CATHETER & ANGIOGRAM	7.95	10.67	0.77	19.39
93552		HEART CATHETER & ANGIOGRAM	8.67	10.58	0.76	20.01
93736	26	TELEPHONE ANALYSIS, PACEMAKER	0.40	0.27	0.02	0.69
93736	TC	TELEPHONE ANALYSIS, PACEMAKER	0.00	0.39	0.03	0.42
93850	26	CEREBRAL ARTERY STUDY	0.23	0.42	0.05	0.70
93850	TC	CEREBRAL ARTERY STUDY	0.00	1.36	0.16	1.52
93860	26	CAROTID ARTERY STUDY	0.26	0.70	0.07	1.03
93860	TC	CAROTID ARTERY STUDY	0.00	1.40	0.16	1.56
93870	26	CAROTID ARTERY IMAGING	0.51	0.95	0.10	1.56
93870	TC	CAROTID ARTERY IMAGING	0.00	2.95	0.34	3.29
93890	26	UPPER LIMB ARTERY STUDY	0.33	0.61	0.07	1.01
93890	TC	UPPER LIMB ARTERY STUDY	0.00	2.26	0.24	2.50
93910	26	LOWER LIMB ARTERY STUDY	0.64	0.60	0.06	1.32
93910	TC	LOWER LIMB ARTERY STUDY	0.00	1.58	0.20	1.78
93950	26	LIMB VEIN STUDY	0.37	0.48	0.05	0.88
93950	TC	LIMB VEIN STUDY	0.00	0.91	0.11	1.02
93960	26	VENOUS FLOW STUDY, CALF	0.37	0.50	0.06	0.93
93960	TC	VENOUS FLOW STUDY, CALF	0.00	1.47	0.17	1.64
94010	26	BREATHING CAPACITY TEST	0.25	0.26	0.02	0.53
94010	TC	BREATHING CAPACITY TEST	0.00	0.42	0.03	0.45
94060	26	BRONCHOSPASM EVALUATION	0.23	0.37	0.03	0.63

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL

(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
94060	TC	BRONCHOSPASM EVALUATION	0.00	0.86	0.06	0.92
94656		INITIAL VENTILATION ASSIST	1.30	1.11	0.10	2.51
94657		CONTINUED VENTILATION ASSIST	0.88	0.66	0.05	1.59
95000	** TC	ALLERGY SKIN TESTS, 1-30	0.00	0.07	0.00	0.07
95001	** TC	ALLERGY SKIN TESTS, 31-60	0.00	0.08	0.01	0.09
95002	** TC	ALLERGY SKIN TESTS, 61-90	0.00	0.08	0.01	0.09
95003	** TC	ALLERGY SKIN TESTS, OVER 90	0.00	0.08	0.00	0.08
95005	** TC	SENSITIVITY SKIN TESTS, 1-5	0.00	0.12	0.01	0.13
95006	** TC	SENSITIVITY SKIN TESTS, 6-10	0.00	0.05	0.00	0.05
95007	** TC	SENSITIVITY SKIN TESTS, 11-15	0.00	0.08	0.01	0.09
95011	** TC	SENSITIVITY SKIN TESTS, 15+	0.00	0.06	0.00	0.06
95014	** TC	SENSITIVITY SKIN TESTS, 1-5	0.00	0.14	0.01	0.15
95016	** TC	SENSITIVITY SKIN TESTS, 6-10	0.00	0.12	0.01	0.13
95017	** TC	SENSITIVITY SKIN TESTS, 11-15	0.00	0.21	0.02	0.23
95018	** TC	SENSITIVITY SKIN TESTS, 15+	0.00	0.10	0.01	0.11
95020	** TC	ALLERGY SKIN TESTS, 1-10	0.00	0.12	0.01	0.13
95021	** TC	ALLERGY SKIN TESTS, 11-20	0.00	0.11	0.01	0.12
95022	** TC	ALLERGY SKIN TESTS, 21-30	0.00	0.12	0.01	0.13
95023	** TC	ALLERGY SKIN TESTS, OVER 30	0.00	0.10	0.01	0.11
95027	** TC	SKIN END POINT TITRATION	0.00	0.18	0.02	0.20
95030	** TC	ALLERGY SKIN TESTS, 2	0.00	0.19	0.02	0.21
95031	** TC	ALLERGY SKIN TESTS, 3-4	0.00	0.17	0.01	0.18
95032	** TC	ALLERGY SKIN TESTS, 5-6	0.00	0.22	0.02	0.24
95033	** TC	ALLERGY SKIN TESTS, 7-8	0.00	0.20	0.01	0.21
95034	** TC	ALLERGY SKIN TESTS, OVER 8	0.00	0.06	0.00	0.06
95040	** TC	ALLERGY PATCH TESTS, 1-10	0.00	0.10	0.01	0.11
95041	** TC	ALLERGY PATCH TESTS, 11-20	0.00	0.12	0.01	0.13
95042	** TC	ALLERGY PATCH TESTS, 21-30	0.00	0.11	0.01	0.12
95043	** TC	ALLERGY PATCH TESTS, OVER 30	0.00	0.10	0.01	0.11
95051	** TC	PHOTO PATCH TESTS, OVER 10	0.00	0.14	0.01	0.15
95056	** TC	PHOTOSENSITIVITY TESTS	0.00	0.17	0.01	0.18
95060	** TC	EYE ALLERGY TESTS	0.00	0.34	0.02	0.36
95065	** TC	NOSE ALLERGY TEST	0.00	0.18	0.01	0.19
95070	** TC	BRONCHIAL ALLERGY TESTS	0.00	1.12	0.08	1.20
95071	** TC	BRONCHIAL ALLERGY TESTS	0.00	0.87	0.03	0.72
95075	** TC	INGESTION CHALLENGE TEST	0.00	0.59	0.04	0.63
95078	** TC	PROVOCATIVE TESTING	0.00	0.25	0.02	0.27
95080	** TC	PASSIVE TRANSFER TESTS, 1-10	0.00	1.03	0.17	1.20
95081	** TC	PASSIVE TRANSFER TESTS, 11-20	0.00	0.98	0.07	1.05
95082	** TC	PASSIVE TRANSFER TESTS, 20+	0.00	0.69	0.10	0.79
95135		IMMUNOTHERAPY, ONE ANTIGEN	0.17	0.09	0.01	0.27
95150		ANTIGEN THERAPY SERVICES	0.64	0.06	0.01	0.71
95819	28	ELECTROENCEPHALOGRAM (EEG)	0.40	0.53	0.04	0.97
95819	TC	ELECTROENCEPHALOGRAM (EEG)	0.00	1.22	0.10	1.32
95860		ELECTROMYOGRAPHY, ONE LIMB	1.08	0.99	0.08	2.15
95861		ELECTROMYOGRAPHY, TWO LIMBS	1.65	1.46	0.11	3.22
95900		MOTOR NERVE CONDUCTION TEST	0.47	0.40	0.03	0.90
95904		SENSE NERVE CONDUCTION TEST	0.38	0.39	0.03	0.80
95935		"H" OR "F" REFLEX STUDY	0.63	0.40	0.03	1.06
97010		HOT OR COLD PACKS THERAPY	0.21	0.19	0.02	0.42
97012		MECHANICAL TRACTION THERAPY	0.22	0.20	0.02	0.44
97014		ELECTRIC STIMULATION THERAPY	0.22	0.20	0.02	0.44
97016		VAGOPNEUMATIC DEVICE THERAPY	0.25	0.23	0.03	0.51
97018		PARAFFIN BATH THERAPY	0.26	0.24	0.03	0.53
97020		MICROWAVE THERAPY	0.18	0.16	0.02	0.36
97022		WHIRLPOOL THERAPY	0.21	0.20	0.02	0.43
97024		DIATHERMY TREATMENT	0.20	0.20	0.02	0.42

PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCPCS ¹	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL- PRACTICE RVUS	TOTAL RVUS
97026		INFRARED THERAPY	0.21	0.19	0.02	0.42
97028		ULTRAVIOLET THERAPY	0.18	0.16	0.01	0.35
97039		PHYSICAL THERAPY TREATMENT	0.30	0.26	0.03	0.59
97110		THERAPEUTIC EXERCISES	0.26	0.22	0.03	0.51
97112		NEUROMUSCULAR REEDUCATION	0.25	0.22	0.02	0.49
97114		FUNCTIONAL ACTIVITY THERAPY	0.21	0.18	0.02	0.41
97116		GAIT TRAINING THERAPY	0.22	0.18	0.02	0.42
97118		MANUAL ELECTRIC STIMULATION	0.25	0.24	0.02	0.51
97120		ELECTRIC CURRENT THERAPY	0.28	0.25	0.03	0.56
97122		MANUAL TRACTION THERAPY	0.20	0.19	0.02	0.41
97124		MASSAGE THERAPY	0.22	0.19	0.02	0.43
97126		CONTRAST BATHS THERAPY	0.21	0.18	0.02	0.41
97128		ULTRASOUND THERAPY	0.21	0.20	0.02	0.43
97139		PHYSICAL MEDICINE PROCEDURE	0.36	0.30	0.03	0.69
97145		EXTENDED PHYSIOTHERAPY	0.14	0.11	0.01	0.26
97220		HYDROTHERAPY	0.41	0.38	0.04	0.81
97221		EXTENDED HYDROTHERAPY	0.13	0.10	0.01	0.24
97240		HYDROTHERAPY	0.46	0.39	0.05	0.90
97241		EXTENDED HYDROTHERAPY	0.12	0.10	0.02	0.24
97260		REGIONAL MANIPULATION	0.19	0.21	0.02	0.42
97261		SUPPLEMENTAL MANIPULATIONS	0.11	0.10	0.01	0.22
97500		ORTHOTICS TRAINING	0.31	0.27	0.03	0.61
97501		SUPPLEMENTAL TRAINING	0.17	0.15	0.02	0.34
97520		PROSTHETIC TRAINING	0.37	0.30	0.03	0.70
97521		SUPPLEMENTAL TRAINING	0.20	0.16	0.02	0.38
97530		KINETIC THERAPY	0.38	0.32	0.04	0.74
97531		ADDED KINETIC THERAPY	0.17	0.15	0.02	0.34
97540		TRAINING FOR DAILY LIVING	0.44	0.37	0.03	0.84
97541		SUPPLEMENTAL TRAINING	0.21	0.16	0.01	0.38
97700		TRAINING CHECKOUT	0.40	0.35	0.04	0.79
97701		SUPPLEMENTAL CHECKOUT	0.20	0.17	0.02	0.39
97720		EXTREMITY TESTING	0.42	0.36	0.04	0.82
97721		SUPPLEMENTAL LIMB TESTING	0.24	0.19	0.02	0.45
97752		MUSCLE TESTING WITH EXERCISE	0.40	0.37	0.04	0.81

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PROPOSED RELATIVE VALUE UNITS (RVUS) FOR PHYSICIAN WORK, PRACTICE EXPENSE, MALPRACTICE AND TOTAL
(continued)

HCCPS	MODIFIER	DESCRIPTION	WORK RVUS	PRACTICE EXPENSE RVUS	MAL-PRACTICE RVUS	TOTAL RVUS
A2000		MANIPULATION OF SPINE	0.20	0.30	0.01	0.51
H5300		OCCUPATIONAL THERAPY	0.33	0.24	0.03	0.60
M0702		BRIEF, OSTEOPATHIC MANIP THER	0.47	0.25	0.02	0.74
M0704		LIMITED, OSTEOPATHIC MANIP TH	0.66	0.36	0.03	1.05
M0706		INTERM. OSTEOPATHIC MANIP THER	0.93	0.37	0.03	1.33
M0710		COMP. OSTEOPATHIC MANIP THER	1.26	0.37	0.03	1.66
M0724		LIMITED INPAT HOSP OMT	0.70	0.57	0.04	1.31
M0728		EXTENDED INPAT HOSP OMT	1.08	0.35	0.03	1.46
Q0047	AA	ANESTHESIA FOR BLEPHAROPLASTY	2.23	1.21	0.38	3.82
Q0047	D2	ANESTHESIA FOR BLEPHAROPLASTY	1.53	0.83	0.26	2.62
Q0047	D3	ANESTHESIA FOR BLEPHAROPLASTY	1.37	0.74	0.23	2.34
Q0047	D4	ANESTHESIA FOR BLEPHAROPLASTY	1.22	0.66	0.22	2.10
Q0047	AD	ANESTHESIA FOR BLEPHAROPLASTY	0.78	0.42	0.13	1.33
Q0069	26	MR - BRAIN	2.29	1.12	0.16	3.57
Q0069	TC	MR - BRAIN	0.00	25.19	1.58	26.77
Q0070	26	MR - SPINAL CANAL	2.49	1.22	0.17	3.88
Q0070	TC	MR - SPINAL CANAL	0.00	25.19	1.58	26.77
Q0071	26	MR - SPINAL CANAL	2.49	1.22	0.17	3.88
Q0071	TC	MR - SPINAL CANAL	0.00	25.19	1.58	26.77
Q0072	26	MR - SPINAL CANAL	2.29	1.12	0.16	3.57
Q0072	TC	MR - SPINAL CANAL	0.00	25.19	1.58	26.77

ADDENDUM C

TABLE 1

GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER LOCALITY

CARRIER NUMBER	LOCALITY NUMBER	LOCALITY NAME	WORK	PRACTICE EXPENSE	MALPRACTICE
510	5	BIRMINGHAM, AL	0.981	0.913	0.824
510	4	MOBILE, AL	0.964	0.911	0.824
510	2	NORTH CENTRAL AL	0.970	0.867	0.824
510	1	NORTHWEST AL	0.985	0.869	0.824
510	6	REST OF AL	0.975	0.851	0.824
510	3	SOUTHEAST AL	0.972	0.869	0.824
1020	1	ALASKA	1.106	1.255	1.042
1030	5	FLAGSTAFF (CITY), AZ	0.983	0.911	1.255
1030	1	PHOENIX (CITY), AZ	1.003	1.016	1.255
1030	7	PRESCOTT (CITY), AZ	0.983	0.911	1.255
1030	99	REST OF ARIZONA	0.987	0.943	1.255
1030	2	TUCSON (CITY), AZ	0.987	0.989	1.255
1030	8	YUMA (CITY), AZ	0.983	0.911	1.255
520	13	ARKANSAS	0.960	0.856	0.302
2050	26	ANAHEIM-SANTA ANA, CA	1.046	1.220	1.370
542	14	BAKERSFIELD, CA	1.028	1.050	1.370
542	11	FRESNO/MADERA, CA	1.006	1.009	1.370
542	13	KINGS/TULARE, CA	0.999	1.001	1.370
2050	18	LOS ANGELES, CA (1ST OF 8)	1.060	1.196	1.370
2050	19	LOS ANGELES, CA (2ND OF 8)	1.060	1.196	1.370
2050	20	LOS ANGELES, CA (3RD OF 8)	1.060	1.196	1.370
2050	21	LOS ANGELES, CA (4TH OF 8)	1.060	1.196	1.370
2050	22	LOS ANGELES, CA (5TH OF 8)	1.060	1.196	1.370
2050	23	LOS ANGELES, CA (6TH OF 8)	1.060	1.196	1.370
2050	24	LOS ANGELES, CA (7TH OF 8)	1.060	1.196	1.370
2050	25	LOS ANGELES, CA (8TH OF 8)	1.060	1.196	1.370
542	3	MARIN/NAPA/SOLANO, CA	1.012	1.198	1.370
542	10	MERCED/SURR. CNTYS, CA	1.018	1.009	1.370
542	12	MONTEREY/SANTA CRUZ, CA	1.023	1.108	1.370
542	1	N. COASTAL CNTYS, CA	1.003	1.072	1.370
542	2	NE RURAL CA	1.001	0.990	1.370
542	7	OAKLAND-BERKELEY, CA	1.028	1.258	1.370
542	27	RIVERSIDE, CA	1.026	1.080	1.370
542	4	SACRAMENTO/SURR. CNTYS, CA	1.026	1.088	1.370
542	15	SAN BERNADINO/E.CENTRAL CA	1.025	1.077	1.370
2050	28	SAN DIEGO/IMPERIAL, CA	1.026	1.090	1.370
542	5	SAN FRANCISCO, CA	1.038	1.303	1.370
542	6	SAN MATEO, CA	1.038	1.303	1.370
2050	16	SANTA BARBARA, CA	1.012	1.073	1.370
542	9	SANTA CLARA, CA	1.048	1.286	1.370
542	8	STOCKTON/SURR. CNTYS, CA	1.019	1.027	1.370
2050	17	VENTURA, CA	1.034	1.132	1.370
550	1	COLORADO	0.999	0.988	0.683
10230	4	EASTERN CONN.	0.999	1.053	1.036

GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER LOCALITY

CARRIER NUMBER	LOCALITY NUMBER	LOCALITY NAME	WORK	PRACTICE EXPENSE	MALPRACTICE
10230	1	NW AND N.CENTRAL CONN.	1.002	1.071	1.025
10230	3	SOUTH CENTRAL CONN.	1.018	1.103	1.188
10230	2	SW CONNECTICUT	1.053	1.139	1.231
570	1	DELAWARE	1.026	1.018	0.664
580	1	D.C. + MD/VA SUBURBS	1.059	1.168	0.947
590	3	FORT LAUDERDALE, FL	0.993	0.981	1.376
590	4	MIAMI, FL	1.034	1.025	1.641
590	2	N/NC FLORIDA CITIES	0.975	0.932	1.108
590	1	REST OF FLORIDA	0.966	0.871	1.108
1040	1	ATLANTA, GA	0.975	1.022	0.752
1040	4	REST OF GEORGIA	0.956	0.841	0.752
1040	2	SMALL GA CITIES 02	0.962	0.895	0.752
1040	3	SMALL GA CITIES 03	0.961	0.869	0.752
1120	1	HAWAII	1.003	1.094	1.025
5130	12	NORTH IDAHO	0.965	0.917	0.889
5130	11	SOUTH IDAHO	0.967	0.936	0.889
621	10	CHAMPAIGN-URBANA, IL	0.965	0.920	1.137
621	16	CHICAGO, IL	1.044	1.114	1.773
621	3	DE KALB, IL	0.978	0.925	1.137
621	11	DECATUR, IL	0.981	0.927	1.137
621	12	EAST ST. LOUIS, IL	0.989	0.958	1.579
621	6	KANKAKEE, IL	0.972	0.925	1.137
621	8	NORMAL, IL	0.997	0.968	1.137
621	1	NORTHWEST, IL	0.974	0.896	1.137
621	5	PEORIA, IL	1.009	1.031	1.137
621	7	QUINCY, IL	0.974	0.896	1.137
621	4	ROCK ISLAND, IL	0.995	0.958	1.137
621	2	ROCKFORD, IL	1.010	1.018	1.137
621	13	SOUTHEAST IL	0.974	0.896	1.137
621	14	SOUTHERN IL	0.974	0.896	1.137
621	9	SPRINGFIELD, IL	0.996	0.966	1.137
621	15	SUBURBAN CHICAGO, IL	1.020	1.097	1.137
630	1	METROPOLITAN INDIANA	0.998	0.963	0.547
630	3	REST OF INDIANA	0.979	0.896	0.516
630	2	URBAN INDIANA	0.980	0.905	0.516
640	5	DES MOINES(POLK/WARREN),IA	0.997	0.966	0.666
640	8	IOWA CITY (CITY LIMITS)	0.960	0.967	0.666
640	3	NORTH CENTRAL IOWA	0.971	0.916	0.666
640	2	NORTHEAST IOWA	0.972	0.918	0.666
640	6	NORTHWEST IOWA	0.969	0.890	0.666
640	4	S.CEN. IA(EXCL DES MOINES)	0.962	0.881	0.666
640	1	SE IOWA (EXCL IOWA CITY)	0.978	0.929	0.666
640	7	SOUTHWEST IOWA	0.968	0.900	0.666
740	5	KANSAS CITY, KS	0.978	0.964	1.134
650	1	REST OF KANSAS	0.953	0.893	1.134
740	4	SUBURBAN KANSAS CITY, KS	0.978	0.964	1.134
660	1	LEXINGTON & LOUISVILLE, KY	0.984	0.917	0.667

GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER LOCALITY

CARRIER NUMBER	LOCALITY NUMBER	LOCALITY NAME	WORK	PRACTICE EXPENSE	MALPRACTICE
660	3	REST OF KENTUCKY	0.974	0.875	0.667
660	2	SM CITIES (CITY LIMITS) KY	0.976	0.898	0.667
528	7	ALEXANDRIA, LA	0.985	0.889	0.808
528	3	BATON ROUGE, LA	0.991	0.966	0.808
528	6	LAFAYETTE, LA	0.982	0.928	0.808
528	4	LAKE CHARLES, LA	0.975	0.907	0.808
528	5	MONROE, LA	0.979	0.880	0.808
528	1	NEW ORLEANS, LA	0.994	1.003	1.185
528	50	REST OF LOUISIANA	0.972	0.880	0.824
528	2	SHREVEPORT, LA	1.003	0.940	0.808
21200	2	CENTRAL MAINE	0.942	0.903	0.716
21200	1	NORTHERN MAINE	0.947	0.912	0.716
21200	3	SOUTHERN MAINE	0.956	0.980	0.716
690	1	BALTIMORE/SURR. CNTYS, MD	1.027	1.040	0.927
690	3	SOUTH + E. SHORE MD	1.011	1.010	0.820
690	2	WESTERN MARYLAND	1.006	1.013	0.843
700	2	MASS.SUBURBS/RURAL(CITIES)	0.997	1.072	0.855
700	1	MASSACHUSETTS URBAN	1.002	1.131	0.855
710	1	DETROIT, MI	1.059	1.091	1.736
710	2	MICHIGAN, NOT DETROIT	1.010	0.971	1.196
720	2	NORTHERN MINNESOTA	0.983	0.919	0.748
720	4	SOUTHERN MINNESOTA	0.979	0.901	0.748
10240	1	ST. PAUL-MINNEAPOLIS, MN	1.014	1.024	0.748
10250	1	REST OF MISSISSIPPI	0.960	0.838	0.650
10250	2	URBAN MS (CITY LIMITS)	0.966	0.902	0.650
740	3	K.C. (JACKSON COUNTY), MO	0.978	0.964	1.179
740	2	N. K.C. (CLAY/PLATTE), MO	0.978	0.964	1.179
11260	3	REST OF MO	0.950	0.847	1.179
740	6	RURAL NW COUNTIES, MO	0.953	0.866	1.179
11260	2	SM. E.CITIES+JEFF.CNTY,MO	0.973	0.907	1.179
740	1	ST. JOSEPH, MO	0.950	0.867	1.179
11260	1	ST. LOUIS/LG. E.CITIES, MO	0.988	0.963	1.366
751	1	MONTANA	0.967	0.926	0.718
655	15	OMAHA + LINCOLN, NE	0.971	0.929	0.435
655	16	REST OF NEBRASKA	0.952	0.849	0.435
655	17	URBAN (CNTY POP > 25000) NE	0.956	0.865	0.435
1290	3	ELKO & ELY (CITIES), NV	0.984	1.026	1.144
1290	1	LAS VEGAS, ET AL (CITIES), NV	1.036	1.082	1.144
1290	2	RENO, ET AL (CITIES), NV	1.008	1.141	1.144
1290	99	REST OF NEVADA	1.020	1.079	1.144
780	40	NEW HAMPSHIRE	0.962	1.011	0.602
860	2	MIDDLE NEW JERSEY	1.034	1.070	1.153
860	1	NORTHERN NEW JERSEY	1.040	1.131	1.153
860	3	SOUTHERN NEW JERSEY	1.016	1.030	1.153
1360	1	NEW MEXICO	0.981	0.925	0.767
801	1	BUFFALO/SURR. CNTYS, NY	1.006	0.942	0.963
803	1	MANHATTAN, NY	1.059	1.255	1.647

GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER LOCALITY

CARRIER NUMBER	LOCALITY NUMBER	LOCALITY NAME	WORK	PRACTICE EXPENSE	MALPRACTICE
801	3	N. CENTRAL CITIES, NY	0.997	0.952	0.963
803	2	NYC SUBURBS/LONG I., NY	1.060	1.229	1.929
803	3	POUGHKPSIE/N.NYC SUBURBS	1.004	1.018	1.325
14330	4	QUEENS, NY	1.059	1.255	1.861
801	2	ROCHESTER/SURR. CNTYS, NY	1.021	1.017	0.963
801	4	REST OF NEW YORK	0.988	0.935	0.963
5535	95	REST OF NORTH CAROLINA	0.963	0.883	0.378
5535	94	URBAN (CITY LIMITS) NC	0.975	0.926	0.378
820	1	NORTH DAKOTA	0.965	0.895	0.688
16360	1	AKRON, OH	0.993	0.944	0.920
16360	2	CINCINATI, OH	0.989	0.956	0.920
16360	3	CLEVELAND, OH	1.011	0.968	0.920
16360	4	COLUMBUS, OH	0.983	0.956	0.920
16360	5	DAYTON, OH	0.999	0.935	0.920
16360	9	E. CENTRAL (STEBENVL), OH	0.974	0.912	0.920
16360	7	MANSFIELD, OH	0.972	0.908	0.920
16360	13	MARION + SURR. CNTYS., OH	0.971	0.911	0.920
16360	6	NORTHWEST (LIMA) OH	0.973	0.919	0.920
16360	14	SCIOTO VALLEY, OH	0.977	0.936	0.920
16360	15	SOUTHEAST (OHIO VALLEY) OH	0.973	0.909	0.920
16360	8	SPRINGFIELD, OH	1.004	0.940	0.920
16360	10	TOLEDO (LUCAS/WOOD), OH	0.991	0.996	0.920
16360	12	W. CENTR (LAKE PLAINS), OH	0.969	0.906	0.920
16360	11	YOUNGSTOWN, OH	0.987	0.937	0.920
1370	1	OK CITY, ET AL (CITIES), OK	0.969	0.961	0.516
1370	99	REST OF OKLAHOMA	0.967	0.877	0.516
1370	4	SM. CITIES (NORTHERN), OK	0.961	0.874	0.516
1370	3	SM. CITIES (SOUTHERN), OK	0.967	0.865	0.516
1370	2	TULSA, ET AL (CITIES), OK	0.978	0.953	0.516
1380	2	EUGENE, ET AL (CITIES), OR	0.968	1.008	0.951
1380	1	PORTLAND, ET AL (CITIES), OR	0.993	1.033	0.951
1380	99	REST OF OREGON	0.979	0.997	0.951
1380	3	SALEM, ET AL (CITIES), OR	0.974	0.991	0.951
1380	12	SW OR. CITIES(CITY LIMITS)	0.974	0.988	0.951
865	2	LG. PENNSYLVANIA CITIES	1.007	1.001	1.433
865	1	PHILLY/PITT MED SCHS/HOSPS	1.014	1.014	1.552
865	4	REST OF PENNSYLVANIA	0.976	0.935	0.986
865	3	SMALL PENNSYLVANIA CITIES	0.984	0.941	0.986
973	20	PUERTO RICO	0.882	0.763	0.466
870	1	RHODE ISLAND	1.009	0.998	0.734
880	1	SOUTH CAROLINA	0.971	0.874	0.448
820	2	SOUTH DAKOTA	0.951	0.857	0.688
5440	35	TENNESSEE	0.969	0.896	0.407
900	29	ABILENE, TX	0.971	0.888	0.504
900	26	AMARILLO, TX	0.972	0.900	0.504
900	31	AUSTIN, TX	0.969	0.968	0.504
900	20	BEAUMONT, TX	0.998	0.955	0.504

GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER LOCALITY

CARRIER NUMBER	LOCALITY NUMBER	LOCALITY NAME	WORK	PRACTICE EXPENSE	MALPRACTICE
900	9	BRAZORIA, TX	1.025	0.955	0.504
900	10	BROWNSVILLE, TX	0.980	0.888	0.504
900	24	CORPUS CHRISTI, TX	0.976	0.944	0.504
900	11	DALLAS, TX	0.996	0.971	0.504
900	12	DENTON, TX	0.996	0.971	0.504
900	14	EL PASO, TX	0.995	0.894	0.504
900	28	FORT WORTH, TX	0.973	0.936	0.504
900	15	GALVESTON, TX	0.982	0.968	0.504
900	16	GRAYSON, TX	0.964	0.903	0.504
900	18	HOUSTON, TX	1.014	0.982	0.656
900	33	LAREDO, TX	0.968	0.856	0.504
900	17	LONGVIEW, TX	0.968	0.929	0.504
900	21	LUBBOCK, TX	0.950	0.881	0.504
900	19	MC ALLEN, TX	0.945	0.873	0.504
900	23	MIDLAND, TX	1.023	0.998	0.504
900	2	NORTHEAST RURAL TEXAS	0.969	0.884	0.504
900	13	ODESSA, TX	1.008	0.971	0.504
900	25	ORANGE, TX	0.998	0.955	0.504
900	30	SAN ANGELO, TX	0.954	0.902	0.504
900	7	SAN ANTONIO, TX	0.973	0.929	0.504
900	3	SOUTHEAST RURAL TEXAS	0.973	0.894	0.504
900	6	TEMPLE, TX	0.969	0.886	0.504
900	8	TEXARKANA, TX	0.953	0.883	0.504
900	27	TYLER, TX	0.984	0.931	0.504
900	32	VICTORIA, TX	0.976	0.973	0.504
900	22	WACO, TX	0.981	0.871	0.504
900	4	WESTERN RURAL TEXAS	0.961	0.852	0.504
900	34	WICHITA FALLS, TX	0.969	0.896	0.504
910	9	UTAH	0.993	0.952	0.739
780	50	VERMONT	0.942	0.941	0.533
10490	1	RICHMOND+CHARLOTTESVL, VA	0.975	0.953	0.462
10490	4	REST OF VIRGINIA	0.967	0.888	0.522
10490	3	SM. TOWN/INDUSTRIAL VA	0.971	0.892	0.531
10490	2	TIDEWATER+N. VA COUNTIES	0.989	0.994	0.703
973	50	VIRGIN ISLANDS	1.000	1.000	1.000
930	4	E.CEN+NE WA (EXCL SPOKANE)	0.991	0.979	1.064
930	2	SEATTLE (KING CNTY), WA	1.019	1.049	1.064
930	3	SPOKANE+RICHLND(CITIES),WA	0.997	0.997	1.064
930	1	W + SE WA (EXCL SEATTLE)	1.008	0.992	1.064
16510	16	CHARLESTON, WV	0.987	0.962	0.688
16510	18	EASTERN VALLEY, WV	0.962	0.881	0.688
16510	19	OHIO RIVER VALLEY, WV	0.962	0.881	0.688
16510	20	SOUTHERN VALLEY, WV	0.960	0.876	0.688
16510	17	WHEELING, WV	0.975	0.900	0.688
951	13	CENTRAL WISCONSIN	0.960	0.888	0.762
951	40	GREEN BAY, WI (NORTHEAST)	0.979	0.913	0.762
951	54	JANESVILLE, WI (S-CENTRAL)	0.970	0.905	0.762

GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER LOCALITY

CARRIER NUMBER	LOCALITY NUMBER	LOCALITY NAME	WORK	PRACTICE EXPENSE	MALPRACTICE
951	19	LA CROSSE, WI (W-CENTRAL)	0.974	0.922	0.762
951	15	MADISON, WI (DANE COUNTY)	0.977	0.979	0.762
951	46	MILWAUKEE SUBURBS, WI (SE)	1.010	1.008	0.762
951	4	MILWAUKEE, WI	1.008	1.009	0.762
951	12	NORTHWEST WISCONSIN	0.970	0.898	0.762
951	60	OSHKOSH, WI (E-CENTRAL)	0.974	0.911	0.762
951	14	SOUTHWEST WISCONSIN	0.960	0.888	0.762
951	36	WAUSAU, WI (N-CENTRAL)	0.971	0.898	0.762
5530	21	WYOMING	0.968	0.938	0.641

Note: Work GPCI is the 1/4 work GPCI required by OBRA 89.

**ADDENDUM C
TABLE 2**

GEOGRAPHIC PRACTICE COST INDICES BY STATE

STATE	WORK	PRACTICE EXPENSE	MALPRACTICE
ALABAMA	0.975	0.875	0.824
ALASKA	1.106	1.255	1.042
ARIZONA	0.995	0.984	1.255
ARKANSAS	0.960	0.856	0.302
CALIFORNIA	1.038	1.162	1.370
COLORADO	0.999	0.988	0.683
CONNECTICUT	1.014	1.087	1.102
DELAWARE	1.026	1.018	0.664
DIST. OF COLUMBIA	1.059	1.168	0.922
FLORIDA	0.988	0.951	1.258
GEORGIA	0.965	0.921	0.752
HAWAII	1.003	1.094	1.025
IDAHO	0.967	0.931	0.889
ILLINOIS	1.018	1.046	1.458
INDIANA	0.987	0.927	0.529
IOWA	0.973	0.914	0.666
KANSAS	0.958	0.906	1.134
KENTUCKY	0.976	0.886	0.667
LOUISIANA	0.983	0.929	0.913
MAINE	0.948	0.931	0.716
MARYLAND	1.033	1.073	0.921
MASSACHUSETTS	1.000	1.111	0.855
MICHIGAN	1.032	1.027	1.447
MINNESOTA	0.999	0.971	0.748
MISSISSIPPI	0.962	0.855	0.650
MISSOURI	0.970	0.914	1.247
MONTANA	0.967	0.926	0.718
NEBRASKA	0.960	0.883	0.435
NEVADA	1.022	1.093	1.144
NEW HAMPSHIRE	0.962	1.011	0.602
NEW JERSEY	1.035	1.103	1.153
NEW MEXICO	0.981	0.925	0.767
NEW YORK	1.037	1.131	1.547
NORTH CAROLINA	0.965	0.890	0.378
NORTH DAKOTA	0.965	0.895	0.688
OHIO	0.991	0.946	0.920
OKLAHOMA	0.969	0.911	0.516
OREGON	0.981	1.007	0.951
PENNSYLVANIA	0.997	0.978	1.268
PUERTO RICO	0.882	0.763	0.466
RHODE ISLAND	1.009	0.998	0.734
SOUTH CAROLINA	0.971	0.874	0.448
SOUTH DAKOTA	0.951	0.857	0.688
TENNESSEE	0.969	0.896	0.407

GEOGRAPHIC PRACTICE COST INDICES BY STATE

STATE	WORK	PRACTICE EXPENSE	MALPRACTICE
TEXAS	0.983	0.926	0.530
UTAH	0.993	0.952	0.739
VERMONT	0.942	0.941	0.533
VIRGINIA	0.990	0.971	0.632
VIRGIN ISLANDS	1.000	1.000	1.000
WASHINGTON	1.009	1.008	1.064
WEST VIRGINIA	0.970	0.903	0.688
WISCONSIN	0.985	0.948	0.762
WYOMING	0.988	0.938	0.641

Note: Work GPCI is the 1/4 work GPCI required by OBRA 89.

BILLING CODE 4120-01-C

Addendum D—Information for Obtaining Sources of Data Underlying Physician Fee Schedule

A. NTIS/GPO Documents

National Technical Information Service (NTIS); phone 1-800-336-4700, or (703) 487-4650, Springfield, VA 22161.

Government Printing Office (GPO); phone (202) 783-3238 for orders, (202) 275-3050 for service inquiries, (202) 275-3054 for complaints; mail to Superintendent of Documents, U.S.G.P.O., Washington, DC 20402.

1. Harvard Phase I Volumes, NTIS:
Volume I, Executive Summary, PB89-101823
Volume II, Data description and analysis, PB89-101836
Volume III, Results and conclusions for surveyed procedures, PB89-101844
Volume IV, Copies of surveys and other information, PB89-101851
Volume IVA, Visit and consultation methodology and results, PB89-164412
Volume V, Documentation for the data tape, PB89-101869
Volume VI, Final values and components, PB89-164420
Survey data tape (including Volume IV and Volume V documentation), PB89-101810
Phase I final values data tape, PB89-164404

2. Harvard Phase II Volumes, NITS:
Volume I, Executive Summary, PB91-172189
Volume II, Final Report, PB91-172197
Volume III, Appendices, PB91-172205
Volume IV, Data Files Documentation, PB91-172213
Volume V, Data Files (paper copy), PB91-172221
Data Files (diskette), PB91-507251
Five-volume Set, PB91-172171
3. October 1989 Reports to Congress "Medicare Physician Payment" (HCFA Pub. No. 03287); composed of three reports:
—"Volume and Intensity of Physician Services"
—"Relative Value Scales for Physician Services" and
—"Implementation of a National Fee Schedule"
NTIS accession # PB90-148370
GPO stock number 017-060-00314-6

4. Center for Health Economics Research (CHER) report on "Geographic Variation in Surgical Fees," NTIS PB90-122468.

5. Center for Health Economics Research (CHER) report on "Global Fees for Surgery," NTIS PB91-113498.

6. Urban Institute CPCI report "The Geographic Medicare Index: Alternative Approaches," NTIS PB89-218592.
Supplement to "The Geographic Medicare Index: Alternative Approaches," Tuesday, September 4, 1990 Federal Register, Vol. 55 No. 171; NTIS PB91-113506

7. Urban Institute Report "Refining the Malpractice Geographic Practice Cost Index: February 1991," NTIS PB91-155218.
Personal computer diskette (tables and documentation); NTIS PB91-506899

8. "Model Fee Schedule," Tuesday September 4, 1990 Federal Register, Vol. 55 No. 171.
GPO stock number 069-001-00023-8

B. Documents from Other Sources

1. Physician Payment Review Commission Visit Coding Recommendations—Physician Payment Review Commission, 2120 L Street, NW., Suite 510, Washington, DC 20037.

2. Harvard Phase II Study for Dermatology Services—

American Academy of Dermatology, 1567 Maple Avenue, P.O. Box 3116 Evanston, Illinois 60204-3116. Phone: (708) 869-4382.
Attention: Raymond W. Harrington, Jr., Assistant Executive Director, Division of Health Policy and Public Affairs.

3. Harvard Phase II Study for Pathology Services—

College of American Pathologists, 1101 Vermont Avenue, NW., Suite 604, Washington, DC 20005. Phone: (202) 371-6617.

Attention: Professional Relations

4. Harvard Phase II Study for Psychiatry Services (Contract 278-87-0024, NTIS accession number pending)—

National Institute of Mental Health, Division of Applied and Services Research, 5600 Fishers Lane, Room 18-C-14, Rockville, Maryland 20857. Phone: (301) 443-4233.

Attention: Paul Widem.

5. Harvard Phase II Study for Ophthalmology Services—

American Academy of Ophthalmology, 1101 Vermont Avenue, NW., Suite 300, Washington, DC 20005. Phone: (202) 737-6662.

Attention: Stephanie Mench, Assistant Director for Federal, Economic Policy.

Addendum E—CPT Definitions for Visit Codes

The descriptors for office and outpatient medical services, inpatient hospital visits, and consultations contained in this Addendum have been approved by the CPT Editorial Panel for pilot testing. Pilot testing began in January 1991 and is expected to be completed in April 1991.

This addendum represents the Editorial Panel's deliberations on generic descriptors and is not intended to be a stand-alone document. Specialty specific examples, which will assist physicians in application of these generic descriptors, are under development by the CPT Editorial Panel and will be an important component of the revised coding system for both pilot testing and implementation purposes.

These generic descriptors do not address the entire scope of the visit and consultation services. Additional work is underway on several outstanding issues including—

- Emergency department services;
- Observation unit services;
- Home medical services;
- Skilled and other nursing facility services;
- Preventive medicine; and
- Ophthalmology medical services.

We anticipate, however, that descriptors for these services will follow a similar format.

Physicians participating in the pilot testing of the proposed CPT visit and consultation codes and using codes that include time in the code descriptor or are coding a hypothetical visit summary, should note that

the stated times do not include the time it would take to complete a procedure that is performed at the time of the visit if the procedure can be separately reported (for example, arthrocentesis).

These physicians should also review carefully the definition of "Initial Inpatient Hospital Care" and note that all visit and consultation services provided by a physician in conjunction with an admission are considered part of initial inpatient hospital care when performed within 24 hours before admission.

Definitions

Certain key words and phrases are used throughout the proposed visit and consultation codes. To reduce the potential for differing interpretations and to increase the consistency of reporting by physicians in differing specialties, the CPT Editorial Panel developed definitions for those key words and phrases.

History

The extent of the history obtained by a physician relates to the amount of work and the duration of time required to perform a given level of service. Consequently, the extent of the history is a key element in distinguishing one level of service from another. The proposed codes recognize four types of history that are defined as follows:

- Problem Focused—chief complaint; brief history of present illness or problem.

- Expanded Problem Focused—chief complaint; brief history of present illness; problem pertinent system review.

- Detailed—chief complaint; extended history of present illness; extended system review; pertinent past, family and social history.

- Comprehensive—chief complaint; extended history of present illness; complete system review; complete past, family and social history.

Examinations

The extent of the examination obtained by a physician relates to the amount of work and the duration of time required to perform a given level of service. Consequently, the extent of the examination is a key element in distinguishing one level of service from another. The proposed codes recognize four types of examination that are defined as follows:

- Problem Focused—an examination that is limited to the affected body area or organ system.

- Expanded Problem Focused—an examination of the affected body area or organ system and other symptomatic or related organ systems.

- Detailed—an extended examination of the affected body area(s) and other symptomatic or related organ system(s).
- Comprehensive—a complete single system specialty examination or a complete multi-system examination.

Appropriate Counseling

Counseling consistent with the nature of the problem and the patient's and family's needs.

Dimensions of Counseling

A discussion with the patient and family or both concerning one or more of the following areas:

- Diagnostic impressions.
- Prognosis.
- Risks and benefits of management (treatment) options.
- Instructions for management (treatment) and follow-up.
- Importance of compliance with chosen management (treatment) option.
- Risk factor reduction.
- Patient and family education.

Severity

The potential for or the existence of significant complications, prolonged functional impairment, organ failure, and mortality.

Problem

Disease, condition, illness, injury, symptom, sign, finding, complaint, or other reason for encounter, with or without a diagnosis being established at the time of the encounter.

Self-limited

A problem that runs a definite and proscribed course, is transient in nature and is not likely to permanently alter health status, for example, a cold or simple contact dermatitis.

Straightforward

Presenting in a frank and clear manner; clear cut.

New Patient

An encounter with a patient who has not received any professional service from the physician for any problem within the past 3 years.

Established Patient

An encounter with a patient who has received professional services from the physician for any problem, within the past 3 years. If a physician is on call for or covering for another physician, the patient's encounter will be classified as an established patient visit. If a patient would have been new to the physician who is not available, the patient's encounter may be classified as a new patient visit.

Initial Inpatient Hospital Care

New or Established Patient

The first hospital inpatient encounter with the patient by the admitting physician. If the patient is admitted to the hospital in the course of an encounter in another site of service (for example, hospital emergency room, physician's office, or skilled nursing facility) all visit and consultation services furnished by the physician in conjunction with that admission are considered part of the initial hospital care when performed within 24 hours before admission. The inpatient care level of service reported by the admitting physician must encompass the services he or she furnished in the other sites of service as well as those services furnished in the inpatient setting. Visit and consultation services furnished in other sites that are related to the admission must not be reported separately.

Consultation

A consultation is a type of evaluation/management service furnished by a physician whose opinion or advice is requested by a physician or other appropriate source for further evaluation and management of a specific problem. A consultant may initiate diagnostic and therapeutic services.

The request for a consultation from the attending physician or other appropriate source and the need for consultation must be documented in the patient's medical record. The consultant's opinion and any services that were ordered or performed must also be documented in the patient's medical record and communicated to the attending physician or other appropriate source.

Patient and family initiated requests for "consultations" are not reported using the initial consultation or office visits, as appropriate. If a confirmatory consultation is required, for example, by a third party payor, the modifier—32 (Mandated services) must also be reported. Any specifically identifiable procedure performed on or after the date of the consultation must be reported separately.

Evaluation/management services of a physician following the transfer of the total care of the patient to him or her, do not constitute a consultation. These services must be reported using the appropriate level of service code.

If a consultant participated in the care of a patient in the hospital, (that is, furnishes concurrent care) for one or more conditions, the physician must report the services after the completion of the consultation using the appropriate

subsequent hospital care code. In the office setting, the appropriate established patient code must be used.

Follow-up Consultation

If a consultant needs to see a patient more than once before an opinion is rendered, the consultant must report the services subsequent to the initial consultation, using the appropriate follow-up consultation codes. If a consultant participates in the care of a patient in the hospital, (that is, furnishes concurrent care) for one or more conditions, the physician must report the services subsequent to the completion of the consultation using the appropriate subsequent hospital care code. In the office setting, the appropriate established patient code must be used.

Concurrent Care

The furnishing of similar services, for example, hospital visits, to the same patient by more than one physician on the same day.

Office and Other Outpatient Medical Services

The following codes must be used to report the services furnished to patients in the physician's office or in an outpatient or other ambulatory facility. A patient is considered an outpatient until an inpatient admission is made to a health care facility.

Medical services represented by these codes encompass wide variations in skill, effort, time, responsibility, and medical decisionmaking to prevent, diagnose and treat illness, as well as to promote optimal health. The levels of service are classified as "new patient" and "established patient" (see the definitions contained in this Addendum). Please note that there are 5 levels in each category, but that the levels are not interchangeable. That is, the first level in the new patient classification does not have the same definition or content of service as the first level of the established patient classification.

Office and Other Outpatient Medical Services

New Patient (ON005-ON013)

Pilot Test Code

ON005

Evaluation and management of one or more self-limited or minor problems. This level of service requires: a problem focused history, a problem focused examination, and appropriate counseling.

Medical decisionmaking is straightforward, diagnostic testing is

usually limited, and coordination of care with other providers or agencies is rarely necessary. Physicians, on average, spend 10 minutes face-to-face with the patient and family.

ON007

Evaluation and management of one or more problems of low to moderate severity. This level of service requires: an expanded problem focused history, an expanded problem focused examination, and appropriate counseling.

Medical decisionmaking is straightforward, diagnostic testing is usually limited and coordination of care with other providers or agencies is rarely necessary. Physicians, on average, spend 20 minutes face-to-face with the patient and family.

ON009

Evaluation and management of one or more problems of moderate severity. This level of service requires: a detailed history, a detailed examination, and appropriate counseling.

Medical decisionmaking is of low complexity and includes considering a limited number of diagnoses or weighing a limited number of management options. Diagnostic testing is usually limited and coordination of care with other providers or agencies is occasionally necessary. Physicians, on average, spend 30 minutes face-to-face with the patient and family.

ON011

Evaluation and management of one or more problems of moderate to high severity. This level of service requires: a comprehensive history, a comprehensive examination, and appropriate counseling.

Medical decisionmaking is moderately complex and includes considering multiple diagnoses or weighing multiple management options. Diagnostic testing may be extensive and coordination of care with other providers or agencies is frequently necessary. Physicians, on average, spend 45 minutes face-to-face with the patient and family.

ON013

Evaluation and management of one or more problems of moderate to high severity. This level of service requires: a comprehensive history, a comprehensive examination, and appropriate counseling.

Medical decisionmaking is highly complex, requires extensive skill and judgment, and includes considering multiple diagnoses or weighing multiple management options. Diagnostic testing may be extensive and coordination of

care with other providers or agencies is frequently necessary. Physicians, on average, spend 60 minutes face-to-face with patient and family.

Established Patient (OE015-OE023)

OE015

Evaluation and management of one or more minimal problems, which may not require the presence of a physician, but which is performed under the physician's supervision (for example, for an injection, dressing change, blood pressure monitoring). On average, 5 minutes are spent performing or supervising these services with the patient and family.

OE017

Evaluation and management (including follow-up and periodic re-evaluation) of one or more self-limited or minor problems. This level of service requires: a problem focused history, a problem focused examination, or appropriate counseling, or any combination of these services.

Medical decisionmaking is straightforward, diagnostic testing is usually limited, and coordination of care with other providers and agencies is rarely necessary. Physicians, on average, spend 10 minutes face-to-face with the patient and family.

OE019

Evaluation and management (including follow-up and periodic reevaluation) of one or more problems of low to moderate severity. This level of service requires: an expanded problem focused history, a expanded problem focused examination, or appropriate counseling, or any combination of these services.

Medical decisionmaking is of low complexity and includes considering a limited number of diagnoses or weighing a limited number of management options. Diagnostic testing is usually limited and coordination of care with other providers or agencies is occasionally necessary. Physicians, on average, spend 15 minutes face-to-face with the patient and family.

OE021

Evaluation and management (including follow-up and periodic re-evaluation) of one or more problems of moderate to high severity. This level of service requires: a detailed history, a detailed examination, or appropriate counseling, or any combination of these services.

Medical decisionmaking is moderately complex and includes considering multiple diagnoses or weighing management options. Diagnostic testing

may be extensive and coordination of care with other providers or agencies is frequently necessary. Physicians, on average, spend 25 minutes face-to-face with the patient and family.

OE023

Evaluation and management (including follow-up and periodic re-evaluation) of one or more problems of moderate to high severity. This level of service requires: a comprehensive history, a comprehensive examination, or appropriate counseling, or any combination of these services.

Medical decisionmaking is highly complex, requires extensive skill and judgment, and includes considering multiple diagnoses or weighing multiple management options. Diagnostic testing may be extensive and coordination of care with other providers or agencies is frequently necessary. Physicians, on average, spend 40 minutes face-to-face with the patient and family.

Initial Inpatient Hospital Care New or Established Patient (IH110-IH115)

IH110

Evaluation and management of a patient admitted with one or more problems of low severity. This level of service requires: A comprehensive history, a comprehensive examination, and appropriate counseling.

Medical decisionmaking is straightforward or of low complexity and includes considering a limited number of diagnoses or weighing a limited number of management options. Diagnostic testing is usually limited and coordination of care with the providers or agencies is rarely necessary. Physicians on average, spend 30 minutes, at the bedside or on the patient's floor unit.

IH113

Evaluation and management of a patient admitted with one or more problems of moderate severity. This level of service requires: a comprehensive history, a comprehensive examination, and appropriate counseling.

Medical decisionmaking is moderately complex and includes considering multiple diagnoses or weighing multiple management options. Diagnostic testing is usually moderate and coordination of care with other providers or agencies is occasionally necessary. Physicians, on average, spend 50 minutes, at the bedside or on the patient's floor or unit.

IH115

Evaluation and management of a patient admitted with one or more

problems of high severity. This level of service requires: A comprehensive history, a comprehensive examination, and appropriate counseling.

Medical decisionmaking is highly complex, requires extensive skill and judgement, and includes considering multiple diagnoses or weighing multiple management options. Diagnostic testing may be extensive and coordination of care with other providers or agencies is frequently necessary. Physicians, on average, spend 70 minutes, at the bedside or on the patient's floor or unit.

Subsequent Inpatient Hospital Care (SH200-SH215)

All levels of service include reviewing the medical record and diagnostic studies and changes in the patient's status, (changes in history, physical condition and response to management) since the last assessment by the physician.

SH200

Re-evaluation and management of a patient who is stable, recovering or improving. This level of service requires: a problem focused interval history, a problem focused examination, or appropriate counseling, or any combination of these services.

Medical decisionmaking is straightforward or of low complexity and includes considering a limited number of diagnoses or weighing a limited number of management options. Diagnostic testing is usually limited and coordination of care with other providers or agencies is rarely necessary. Physicians on average, spend 15 minutes at the bedside or on the patient's floor or unit.

SH210

Re-evaluation and management of a patient who is inadequately responding to therapy or who has developed a minor complication. This level of service requires an expanded problem focused interval history, an expanded problem focused examination, or appropriate counseling, or any combination of these services.

Medical decisionmaking is moderately complex and includes considering multiple diagnoses or weighing multiple management options. Diagnostic testing is usually moderate and coordination of care with other providers or agencies is occasionally necessary. Physicians, on average, spend 25 minutes at the bedside or on the patient's floor or unit.

SH215

Re-evaluation and management of patient who is unstable or has developed a significant complication or

a significant new problem. This level of service requires: a detailed interval history, a detailed physical examination, or appropriate counseling, or any combination of these services.

Medical decisionmaking is highly complex, requires extensive skill and judgement, and includes considering multiple diagnoses or weighing multiple management options. Diagnostic testing may be extensive and coordination of care with other providers or agencies is frequently necessary. Physicians on average, spend 35 minutes at the bedside or on the patient's floor or unit.

Initial Consultation Office or Inpatient (IC300-IC330)

IC300

A consultation for a patient with one or more problems of low severity. This level of service requires: a problem focused history, a problem focused examination, or appropriate counseling, or any combination of these services.

Medical decisionmaking is straightforward or of low complexity and includes considering a limited number of diagnoses or weighing a limited number of management options. The number of records and tests that are reviewed is limited, and it is rarely necessary to coordinate care with providers other than the attending physician. Physicians on average spend 30 minutes face to face with the patient and family.

IC

During its February 1991 meeting, the CPT Editorial Panel voted to establish a fifth consultation code at the low end of the range with a face-to-face encounter time of 15 minutes. The wording of the description has not been finalized.

IC310

A consultation for a patient with one or more problems of moderate severity. This level of service requires: an expanded problem focused history, an expanded problem focused examination, or appropriate counseling, or any combination of these services.

Medical decisionmaking is straightforward or of low complexity and includes considering a limited number of diagnoses or weighing a limited number of management options. The number of records and tests that are reviewed is moderate, and it is occasionally necessary to coordinate care with providers other than the attending physician. Physicians on average, spend 40 minutes face to face with the patient and family.

IC320

A consultation for a patient with one or more problems of moderate to high severity. This level of service requires: a detailed history, a detailed examination, or appropriate counseling, or any combination of these services.

Medical decisionmaking is moderately complex and includes considering multiple diagnoses or weighing multiple management options. The number of records and diagnostic tests that are reviewed is extensive, and it is frequently necessary to coordinate care with providers other than the attending physician. Physicians on average spend 60 minutes face to face with the patient and family.

IC330

A consultation for a patient with one or more problems of moderate to high severity. This level of service requires a comprehensive history, a comprehensive examination, or appropriate counseling, or any combination of these services.

Medical decisionmaking is highly complex, requires extensive skill and judgement, and includes considering multiple diagnoses or weighing multiple management options. The number of records and diagnostic tests that are reviewed is extensive, and it is frequently necessary to coordinate care with providers other than the attending physician. Physicians on average spend 80 minutes face to face with the patient and family.

Follow-Up Consultations

All levels of service include reviewing the medical record and diagnostic studies and changes in the patients' status (changes in history, physical condition and response to management), since the last assessment by the physician. Follow-up consultations may include a re-examination of the patient.

FC400

A follow-up visit by a consultant before the completion of his or her consultation and the rendering of an opinion for a patient with one or more problems of low severity. Medical decisionmaking is straightforward or of low complexity and includes considering a limited number of diagnoses or weighing a limited number of management options.

FC410

A follow-up visit by a consultant before the completion of his or her consultation and the rendering of an opinion for a patient with one or more problems of moderate severity. Medical decisionmaking is moderately complex

and includes considering multiple diagnoses or weighing multiple management options.

FC415

A follow-up visit by a consultant before the completion of his or her consultation and the rendering of an opinion for a patient with one or more problems of high severity. Medical decisionmaking is highly complex and includes considering multiple diagnoses or weighing multiple management options.

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Register

Wednesday
June 5, 1991

Part IV

Department of Justice

**Technical Assistance Grants To Promote
Voluntary Compliance With the
Americans With Disabilities Act; Notice of
Availability of Funds and of Solicitation
for Grant Applications**

DEPARTMENT OF JUSTICE

The Americans With Disabilities Act Technical Assistance Grants To Promote Voluntary Compliance With the Act

AGENCY: Office on the Americans with Disabilities Act (OADA), Coordination and Review Section, Civil Rights Division, U.S. Department of Justice.

ACTION: Notice of availability of funds and of solicitation for grant applications.

SUMMARY: The Office on the Americans with Disabilities Act of the United States Department of Justice (DOJ) announces the availability of up to \$2.5 million to conduct projects to inform individuals with disabilities and covered entities about their rights and responsibilities under titles II and III of the Americans with Disabilities Act of 1990 (ADA), and to facilitate voluntary compliance with the regulations implementing titles II and III of the ADA. Grants will be awarded to selected applicants who propose cost-effective and efficient approaches of disseminating information, and producing voluntary compliance with the requirements of the ADA. Proposals should focus on encouraging voluntary compliance to reduce the need to file complaints or conduct litigation. DOJ encourages covered entities and persons with disabilities to work together to achieve compliance on a voluntary basis and will favor solicitations for grant funds that are joint ventures. It is anticipated that grants awarded will range in size from \$85,000 to \$200,000.

DATES: All applications must be received by the close of business (5:30 p.m. EDT) on July 22, 1991.

ADDRESSES: Applications shall be submitted to the Office on the Americans with Disabilities Act, 320 First Street NW., room 854, Washington DC 20035.

FOR FURTHER INFORMATION CONTACT: James D. Bennett or Philip L. Breen, Office on the Americans with Disabilities Act, Civil Rights Division, U.S. Department of Justice, P.O. Box 66118, Washington, DC 20035-6118 at (202) 307-2220 or (202) 307-2226, respectively, or (202) 514-0383 (TDD). This notice and other related information, with exception of standard forms, is available in accessible formats, i.e., braille, large print, audiotape, electronic file, computer disk, and electronic bulletin board (202) 514-6193.

BACKGROUND: On July 26, 1990, President Bush signed into law the landmark Americans with Disabilities Act of 1990, which provides

comprehensive civil rights protections to individuals with disabilities in the areas of employment, public accommodations, transportation, State and local government services, and telecommunications.

The Americans with Disabilities Act provides individuals with disabilities civil rights protections that are parallel to those provided to individuals on the basis of race, color, national origin, sex, and religion. Title II of the ADA prohibits discrimination on the basis of disability in State and local government services. Title III prohibits discrimination on the basis of disability in public accommodations such as hotels, restaurants, theaters, and shopping centers, and in commercial facilities such as factories and office buildings.

Section 506 of the ADA requires the Department to render technical assistance to individuals and entities that have rights or duties under title II (subtitle A) (State and local government services) and title III (public accommodations). Under section 506(d), the Department of Justice has the authority to award grants to individuals and to nonprofit entities for the purpose of providing technical assistance.

Note that the term "covered entities" is used to refer to all businesses, institutions, State and local governments, and other organizations that have duties under titles II and III of the ADA.

PROGRAM DESCRIPTION: The program is designed to develop and implement cost-effective and efficient approaches for disseminating information about the rights of individuals and responsibilities of covered entities, and to bring about compliance with the ADA on a voluntary basis. Proposals should address the four key elements of the program discussed below.

I. Targeted Populations and Issues

The activities conducted under the grant should be directed to persons with disabilities, operators of public accommodations and commercial facilities, State or local governmental entities providing public services, or a combination of these three groups. Proposals should define the characteristics of the population group(s) targeted by describing such factors as location, disability, type of governmental unit, or business type.

The Department is particularly interested in soliciting applications that focus on developing methods for making readily achievable accessibility modifications and providing a full range of auxiliary aids in six types of covered entities:

- Restaurants;
- Hotels and motels;
- Retail stores;
- Hospitals and health care facilities;
- Daycare centers; and
- Places of assembly (e.g. stadiums, theaters, and convention centers.)

In addition, the Department encourages applications that address:

- The training of law enforcement personnel so that they more effectively interact with persons with epilepsy or other disabilities, whose behavior is sometimes mistakenly interpreted as disorderly conduct induced by drug or alcohol use; or
- The provision of auxiliary aids and modifications that will enable persons with disabilities to participate in courses and examinations.

Applicants should explain their reasons for targeting particular populations and issues. Applicants must submit information that demonstrates that they have access to the targeted population and that the applicant can effectively reach the targeted population. Applicants are encouraged to address how businesses and persons with disabilities can be involved jointly in reaching the targeted population.

II. Program Strategy

Proposals must discuss the components of the program strategy, detail the reasons supporting the choice of each component, and explain how each component will contribute to the achievement of the overall objective of cost-effective and efficient dissemination of information and compliance assistance to the targeted population. Discussions of the strategy and supporting rationale should be clear, concise, and based on sound evidence and reasoning.

For most entities that are covered by titles II and III of the ADA, the ADA becomes effective on January 26, 1992. In anticipation of the effective date, DOJ wants accurate information and useful technical assistance to be made available to covered entities and persons with disabilities as soon as possible. Applicants should describe how they will reduce startup time and begin making information and assistance available soon after the grant award date. Start-up of various grant activities might be staggered to allow the applicant to concentrate on getting initial activities going quickly.

Although not required, several program activities are suggested.

- *Achieving specific cases of voluntary compliance.* Applicants may focus their attention on providing information to individual covered

entities on how to achieve compliance in specific facilities. The Department considers this type of activity to be very important. Applicants may also want to consider how their efforts to create the capability to achieve specific cases of voluntary compliance might be "leveraged," that is, how efforts sponsored with grant funds might be used to create the capacity to achieve voluntary compliance in a wider range of similarly situated covered entities over time at no additional cost to the government.

• **Material Development and Dissemination.** Applicants may consider the development and dissemination of material explaining the ADA. If applicants plan to disseminate basic information about the ADA, they are required to use material produced by DOJ and other Federal agencies, as the development of new materials of this type is time consuming and expensive and would merely duplicate existing information that is generic in nature. (DOJ will provide grantees with a camera-ready copy of DOJ-produced materials to facilitate printing such materials.) The development of new, more specialized material is encouraged where such information is necessary to provide a particular targeted population with more specialized information. For example, a pamphlet could be developed to provide strategies on making "readily achievable" changes to physical barriers commonly found in a particular type of covered entity. All materials that are used or developed must be approved by the Department of Justice in advance of use, and all materials developed must be made available to the public in accessible formats. All videotape and other audiovisual material must be captioned.

• **Telephone information lines.** In an effort to provide localized assistance relevant to particular populations, and reduce the burden on DOJ's ADA Information Line, applications for grants may include telephone information lines. Proposals should discuss how overlap with other projects that use telephone lines will be eliminated and what methods will be used to ensure a high standard of accuracy in the information given out over the telephone. Proposals also should present a plan explaining how the information line will be publicized to reach the targeted population. All information lines must be available in both voice and TDD.

• **Training.** Applicants may develop a variety of training courses to facilitate compliance with the ADA. Proposals should describe to whom the training activities will be directed, how the

targeted population will be reached, and how the training will result in concrete voluntary compliance efforts. Applicants are encouraged to involve businesses and the disability community jointly in training. Applicants may also want to consider how their training efforts might be "leveraged," that is, how efforts sponsored with grant funds might be used to create a training capability that can then be marketed to a larger audience without additional cost to the government. Proposals must indicate the type of training that will be offered, the training objectives, the numbers of persons to be trained, and how skill levels attained will be verified.

• **Development of model programs.** Applicants may develop a model or exemplary program, and then use that program as an example to stimulate the voluntary compliance of others. Each proposal must indicate the process by which a model is selected or created, and, most importantly, describe in detail the procedure the applicant intends to use in order to promote the model as an example for others to replicate. Types of activities amenable to treatment as model or exemplary programs include, but are not limited to, dispute resolution techniques and programs to reach populations with special communication needs.

• **Dispute resolution.** Applicants are encouraged to develop programs that will offer a means of informal, negotiated resolution of differences between persons with disabilities and entities with compliance obligations under the Act. The Department believes that many of the techniques and procedures relevant to voluntary dispute resolution already exist. Applicants are encouraged to utilize existing techniques and procedures, modifying them where appropriate to make them more useful in the context of the ADA.

III. Coordination With Other Federally Sponsored ADA-Related Activities

An important aspect of proposals submitted is a description of how the applicant will coordinate, where appropriate, its proposed activities with other Federally sponsored ADA activities, including those of the National Institute of Disability Rehabilitation Research (NIDRR), the Rehabilitation Services Administration (RSA), and the Equal Employment Opportunity Commission (EEOC). The purpose of this coordination is to avoid duplication of effort and enable applicants to refer to and otherwise use the resources sponsored by the agencies described below.

NIDRR proposes to establish ten Regional Disability and Business

Accommodation Centers (RDABACs). These Centers will address a wide range of issues related to the implementation of the ADA, but will place particular emphasis on issues relating to employment and public accommodations. At the same time, NIDRR will support three projects to produce a core set of training materials, resources, and references that will be used by the centers in their technical assistance efforts and by others providing training and technical assistance related to the employment, public accommodations, and telecommunications requirements of the ADA. NIDRR is also planning to develop national peer training projects to enhance knowledge of the ADA. For further information regarding these and other programs operated by NIDRR, contact: David Esquith, (Tel. (202) 732-5801 (voice) or TDD (202) 732-5316.)

RSA proposes to sponsor two initiatives that will provide services for individuals with disabilities. One RSA initiative will be to sponsor statewide pilot projects to provide protection and advocacy services to certain individuals with severe disabilities. RSA will give preference to proposals that provide protection and advocacy services aimed at helping those individuals with severe disabilities who receive independent living services under title VII of the Rehabilitation Act obtain those services and pursue rights under the Rehabilitation Act, the Fair Housing Amendments Act of 1988, the ADA, and other applicable Federal, State, and local laws necessary to achieve their independent living goals. Also, RSA has proposed an initiative to provide short-term training courses for preservice educators and postemployment trainers of personnel working in State vocational rehabilitation agencies, centers for independent living, client assistance programs, rehabilitation facilities, and community-based programs for individuals with disabilities. National in scope, the proposed programs would be initiated after the publication of the final regulations for titles I and III of the ADA. For more information regarding these and other related programs operated by RSA, contact Beverly Stafford, (Tel. (202) 732-1331 (voice). TDD users may contact Ms. Stafford via the Federal Dual Party Relay Service at 1-800-877-8339 (in Washington, DC use (202) 708-9300) between 8 a.m. and 7 p.m. EST.

The Equal Employment Opportunity Commission (EEOC) and DOJ are planning to jointly fund a contract to train a cross-section of persons with disabilities. The contractor will be

responsible for holding workshops, conducting training, and providing follow-up technical assistance. The objectives of the contract are to assist the target group of disabled persons to understand and communicate the requirements of titles I, II, and III of the ADA, to assist the target group to develop specific training projects to educate other persons with disabilities, employers, operators of public accommodations and commercial facilities, and State and local governments, and to assist the target group to develop skills in alternative dispute resolution techniques and other informal methods of resolving disagreements. For more information regarding this contract contact: Chris Bell, (Telephone (202) 663-4177 (voice), (202) 663-4494) or James Bennett, (Telephone (202) 307-2220 (voice), (202) 514-0383 (TDD)).

In addition, applicants should be cognizant of programs related to the ADA sponsored by State and local government agencies, and, where possible, seek to coordinate their proposed activities with existing State and local government programs.

IV. Evaluation of the Strategy

One goal of this program is to determine what information dissemination, education, and compliance assistance strategies are most effective. In planning future efforts, the Office on the ADA needs to know what works and what does not. It is therefore essential that each proposal describe reliable criteria to evaluate the effectiveness of the program at the conclusion of the period of performance.

Each proposal must explain the methods the applicant intends to use to measure the effectiveness of the program, and how the proposed evaluation criteria will indicate to what degree the program succeeded in meeting its goals.

Selection Criteria: Prospective applicants are advised that the awards will be made by the Assistant Attorney General for Civil Rights and after careful evaluation of each proposal by a panel comprised of Civil Rights Division personnel. The panel results are advisory in nature and not binding. Each panelist will evaluate the proposals for acceptability with emphasis on the factors enumerated below.

Program Proposal Evaluation Point System

1. Program Design (55 points)

Proposals will be evaluated on the degree to which they reflect sound program design and cost-effective and

efficient strategies for dissemination of information to targeted population(s), the extent to which the program design addresses important ADA issues, and the extent to which voluntary compliance is achieved as a result of the proposed program activities. Areas that will be closely examined will include the following:

A. Evidence of an in-depth knowledge of the ADA, an understanding of the importance of the ADA issues being addressed, and familiarity with the specific nature of the targeted population and the specific information and assistance the population needs to help it bring about voluntary compliance. (15 points)

B. The description of a strategy to disseminate information and provide compliance assistance to members of the targeted group(s) and the rationale supporting the choice of strategy(ies). The description of the strategy to be employed by the applicant must include an articulation of the project's goals and objectives, a description of the project's major activities, events, and products, and a timetable for the accomplishment of the project's goals. Applicants should explain how proposed project activities will be coordinated, if appropriate, with other Federal, State, and local ADA activities. Preference will be given to proposals that:

- Include joint projects between the disability community and organizations representing covered entities;
- Reflect an ability to begin program activities in an expedited manner; and
- Address one or more of the targeted issues and covered entities highlighted in the section entitled Targeted Population and Issues. (25 points)

C. The methods proposed by the applicant to measure the effectiveness of the program, and how the proposed evaluation criteria will document to what degree the program succeeds in meeting its goals. (15 points)

2. Administrative Capability. (20 points)

Proposals will be rated in terms of the capability of the applicant to select and reach an appropriate target population and implement the program strategy, coordination, and evaluation components of the proposal. (No letters of reference)

A. Evidence of proven organizational ability to provide high quality results, including:

1. Past and present grants and contracts; and
2. Specific experience implementing similar projects. (10 points)

B. Evidence that the applicant will be able to implement the project and complete it on schedule. (10 points)

3. Staff Capability. (25 points) (No Letters of Reference)

Applications will be evaluated in terms of:

A. The degree to which the duties outlined for grant-funded positions appear appropriate to the work that will be conducted under the award. (5 points)

B. The degree to which the qualifications of proposed staff for grant-funded positions appear to match the requirements of these positions. Applicants should submit resumes and job descriptions. (10 points)

C. The degree to which the applicant demonstrates that proposed staff has successfully carried out programs or work of a similar nature in the past. (10 points)

Eligible applicants: This grant competition is open to individuals and to not-for-profit organizations, including community-based disability organizations, national and local organizations representing persons with disabilities, trade associations or their subsidiaries, other organizations representing entities covered by the ADA, State and local government agencies, and organizations representing State and local governments or their employees.

Grant period and award amount: The period of performance will be twelve months from the date of grant award. A total of up to \$2,500,000 is available; it is anticipated that a number of grants will be awarded, with most grants ranging in size from \$85,000 to \$200,000.

Postaward monitoring: The Department intends to provide grantees with the maximum amount of postaward guidance and technical assistance possible within budget and staff constraints. Applicants are advised that DOJ staff will make periodic site visits to provide grantees with guidance and technical assistance and to monitor the progress of the grant. The Office of Justice Programs (OJP), a component of the Department of Justice, will provide financial management and other services in support of the OADA in the administration of this program. Applicants are advised that copies of the quarterly reports sent to OJP must also be sent to the OADA.

Application deadline: All applications must be received by the close of business (5:30 p.m. EDT) on July 22, 1991 at the Office on the Americans with Disabilities Act, 320 First Street NW., room 854, Washington, DC 20035.

Application requirements: Applicants must submit an original and eight copies

of a signed SF 424 (Revision 1988) with the following attachments:

- A narrative program description that addresses (Narrative must be limited to twenty (20) pages):

- (1) The target population and issues;
- (2) The program strategy including a description of the project's goals and objectives, major activities, events and products, and a timetable for the accomplishment of the project's goals;
- (3) Coordination with other Federally sponsored ADA related activities; and

(4) The program evaluation strategy.

- A one page abstract of the proposal.
- A budget narrative required by the SF 424 (Revision 1988)
- Job descriptions for positions that are proposed to be funded under the grant.
- Resumes of individuals who will fill the grant positions.
- Certification regarding drug-free workplace requirements (OJP Form 4061/3 (2/89)).

- Certification regarding debarment, suspension, and other responsibility matters (OJP Form 4061/2 (Rev 2/89)).

- Certification regarding lobbying (SF #LLL).

Dated: May 30, 1991.

John R. Dunne,

Assistant Attorney General, Civil Rights Division.

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Wednesday
June 5 1991

Environmental Protection Agency

Part V

Environmental Protection Agency

40 CFR Part 721

Significant New Uses of Certain Chemical
Substances; Final Rule

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 721**

[OPTS-50587A; FRL-3876-2]

RIN 2070-AB27

Significant New Uses of Certain Chemical Substances**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: EPA is issuing a significant new use rule ("SNUR") under section 5(a)(2) of the Toxic Substances Control Act ("TSCA") for several chemical substances which were the subject of premanufacture notices (PMNs), and are subject to TSCA section 5(e) consent orders issued by EPA. This rule requires certain persons who intend to

manufacture, import, or process these substances for a significant new use to notify EPA at least 90 days before commencing the manufacturing or processing activity designated by this SNUR as a significant new use. The required notice will provide EPA with the opportunity to evaluate the intended use and, if necessary, prohibit or limit that activity before it can occur.

EFFECTIVE DATE: This rule shall be promulgated for purposes of judicial review at 1 p.m. Eastern Standard Time on June 19, 1991. The effective date of this rule is August 5, 1991.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, rm. EB-543-B 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: This SNUR will require certain persons to notify EPA at least 90 days before commencing any activity designated herein as a significant new use. The supporting rationale and background to this rule are more fully set out in the preamble to EPA's first SNURs issued under the Expedited Follow-Up Rule and published at 55 FR 17376 on April 24, 1990. This document promulgates SNURs for substances for which EPA originally proposed SNURs prior to the adoption of the expedited process. The original proposals have been revised and restructured in the new format established for regulation under 40 CFR part 721. The following table lists the substances that are the subjects of this rule, the citations to the original **Federal Register** publications and the redesignated citations in this rule.

Table.— Chemicals Subject to This Significant New Use Rule

[Publication History]

Chemical	Proposed CFR Cite	Publication Date	Redesignated
P-83-769	40 CFR 721.240	49 FR 38310, 9/28/84	40 CFR 721.660
P-83-817	40 CFR 721.300	49 FR 42960, 10/25/84	40 CFR 721.850
P-83-818	40 CFR 721.300	49 FR 42960, 10/25/84	40 CFR 721.850
P-83-906	40 CFR 721.240	49 FR 38303, 9/28/84	40 CFR 721.1029
P-83-908	40 CFR 721.104	49 FR 38303, 9/28/84	40 CFR 721.315
P-83-909	40 CFR 721.100	49 FR 38303, 9/28/84	40 CFR 721.305
P-83-910	40 CFR 721.125	49 FR 38303, 9/28/84	40 CFR 721.425
P-83-1023	40 CFR 721.140	49 FR 36880, 9/20/84	40 CFR 721.1600
P-83-1085	40 CFR 721.54	50 FR 34500, 8/26/85	40 CFR 721.235
P-84-7	40 CFR 721.1017	51 FR 1396, 1/13/86	40 CFR 721.2150
P-84-176	40 CFR 721.65	50 FR 12046, 3/27/85	40 CFR 721.285
P-84-180	40 CFR 721.65	50 FR 12046, 3/27/85	40 CFR 721.285
P-84-181	40 CFR 721.65	50 FR 12046, 3/27/85	40 CFR 721.285
P-84-182	40 CFR 721.65	50 FR 12046, 3/27/85	40 CFR 721.285
P-84-183	40 CFR 721.65	50 FR 12046, 3/27/85	40 CFR 721.285
P-84-184	40 CFR 721.65	50 FR 12046, 3/27/85	40 CFR 721.285
P-84-341	40 CFR 721.76	51 FR 11591, 4/4/86	40 CFR 721.285
P-84-342	40 CFR 721.76	51 FR 11591, 4/4/86	40 CFR 721.285
P-84-343	40 CFR 721.76	51 FR 11591, 4/4/86	40 CFR 721.285
P-84-344	40 CFR 721.76	51 FR 11591, 4/4/86	40 CFR 721.285
P-84-417	40 CFR 721.440	50 FR 11391, 3/21/85	40 CFR 721.1425
P-84-1042	40 CFR 721.433	51 FR 10027, 3/24/86	40 CFR 721.1375
P-85-703	40 CFR 721.76	51 FR 22831, 6/23/86	40 CFR 721.285
P-86-83	40 CFR 721.175	51 FR 26557, 7/24/86	40 CFR 721.460
P-86-542	40 CFR 721.330	52 FR 26557, 3/25/87	40 CFR 721.1025

Consult the preamble to each proposal for further information on the objectives, rationale, and procedures for the rules and the basis for significant new use designations including provisions for developing test data.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a

chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.25.

II. Applicability of General Provisions

General provisions for SNURs appear under subpart A of 40 CFR part 721. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the

rule to uses occurring before the effective date of the final rule. Other provisions for SNURs appear under subparts B, C, and D of 40 CFR part 721. (See 54 FR 31306, July 27, 1989.) These provisions describe standard significant new use designations, recordkeeping requirements, and expedited SNUR procedures. Rules on user fees appear at 40 CFR part 700. Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under section 5(a)(1)(A) of TSCA. In particular, these requirements include the

information submission requirements of section 5(d)(1) and 5(b), the exemptions authorized by section 5(h)(1), (2), (3), and (5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under sections 5(e), 5(f), 6, or 7 to control the activities on which it has received the SNUR notice. If EPA does not take action, EPA is required under section 5(g) to explain in the Federal Register its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707. Persons who intend to import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28 and must certify that they are in compliance with the SNUR requirements. The EPA policy in support of the import certification appears at 40 CFR part 707.

III. Background

The Agency proposed a SNUR for these substances which was published in the Federal Register of November 9, 1990 (55 FR 47286). The background of each PMN and the reasons for proposing the SNUR are set forth in the preamble to the proposed rule. The Agency received no public comment concerning the proposed rule. As a result EPA will promulgate these SNURs as in the proposed rule.

IV. Objectives and Rationale of this Rule

During review of the PMNs submitted for the chemical substances that are the subjects of this SNUR, EPA concluded that, for all except two of the substances, regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health or environmental effects of the substance. The basis for such findings is outlined in the preamble of the proposed rule for these substances. Based on these findings, section 5(e) consent orders requiring the use of appropriate controls were negotiated with the PMN submitters, and SNURs were proposed for such substances which are consistent with the provisions of the section 5(e) orders.

In the case of P-83-817 and P-83-818, for which the proposed uses are not regulated under a section 5(e) order, EPA determined that one or more of the criteria of concern established at 40 CFR 721.170 were met. EPA is promulgating SNURs for 25 specific chemical

substances which have undergone premanufacture review to ensure the following objectives:

(1) EPA will receive notice of any company's intent to manufacture, import, or process a listed chemical substance for a significant new use before that activity begins.

(2) EPA will have an opportunity to review and evaluate data submitted in a SNUR notice before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for a significant new use.

(3) When necessary to prevent unreasonable risks, EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before a significant new use of that substance occurs.

(4) All manufacturers, importers, and processors of the same chemical substance which is subject to a section 5(e) order are subject to similar requirements.

V. Test Data and Other Information

EPA recognizes that section 5 of TSCA does not require persons to develop any particular test data before submission of a SNUR notice. Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. The studies specified in the section 5(e) order may not be the only means of addressing the potential risks of the substance. SNUR notice submitters should be aware that the Agency will be better able to evaluate SNUR notices which provide detailed information on:

(1) Human exposure and environmental release that may result from the significant new use of the chemical substances.

(2) Potential benefits of the substances.

(3) Information on risks posed by the substances compared to risks posed by potential substitutes.

VI. Applicability of Proposed Rule to Uses Occurring Before Effective Date of the Final Rule

For a use to be a significant "new" use, EPA must determine that the use is not ongoing. When the PMN submitter begins manufacture or import of the substances, the submitter must send EPA a Notice of Commencement of Manufacture/Import (NOC) and the substances will be added to the Inventory. In those cases where a section 5(e) order has been issued, the notice submitters are prohibited by the section 5(e) orders from undertaking activities which the Agency is designating as a significant new use. In

addition, because most of these substances have CBI chemical identities and only a very few *bona fide* inquiries have been received for substances that have undergone PMN review, there is little chance that others are undertaking activities which the Agency is designating as a significant new use. Therefore, at this time, EPA has concluded that the uses are not ongoing. However, EPA recognizes in cases when chemical substances identified in these SNURs are added to the Inventory prior to their promulgation, the substances may be manufactured, imported, or processed by other persons for a significant new use as defined in this proposal before promulgation of the rule. Each chemical substance which is the subject of a SNUR in this document was originally proposed as noted in the table under SUPPLEMENTARY INFORMATION. These proposed rules were issued prior to the effective date of the Expedited Follow-Up Rule. These original proposals have been revised and restructured in the new format established for regulation under 40 CFR part 721 with terms that are generally equivalent to those in the original proposals. EPA believes that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of the publication of the original proposal rather than as of the effective date of the rule. If uses which had commenced between the date of the publication of the original proposal and the effective date were considered ongoing, rather than new, any person could defeat the SNURs by initiating a significant new use before the effective date. This would make it difficult for EPA to establish SNUR notice requirements. Thus, persons who begin commercial manufacture, import, or processing of the substances regulated through this SNUR will have to cease any such activity before the effective date of this rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA, not wishing to unnecessarily disrupt the activities of persons who begin commercial manufacture, import, or processing for a proposed significant new use before the effective date of the SNUR, has promulgated provisions to allow such persons to comply with this proposed SNUR before it is promulgated. If a person were to meet the conditions of advance compliance as codified at § 721.45(h) (53 FR 28354, July 17, 1988), the person will be considered to have met the requirements of the final SNUR

for those activities. If persons who begin commercial manufacture, import, or processing of the substance between proposal and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

VII. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substances contained in this rule. The Agency's complete economic analysis is available in the public record for this rule (OPTS-50587A).

VIII. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS-50587A). The record includes basic information considered by the Agency in developing this rule. EPA will supplement the record with additional information as it is received. A public version of the record without any confidential information is available in the TSCA Public Docket Office from 8 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays. The TSCA Public Docket Office is located in rm. NE-G004, 401 M St., SW., Washington, DC.

IX. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule would not be a "major" rule because it would not have an effect on the economy of \$100 million or more, and it would not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this rule, EPA estimates that the cost for submitting a significant new use notice would be approximately \$4,500 to \$11,000, including a \$2,500 user fee payable to EPA to offset EPA costs in processing the notice. EPA believes that, because of the nature of the rule and the substances involved, there would be few significant new use notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that

impact would be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule will likely be small businesses. However, EPA expects to receive few SNUR notices for the substances. Therefore, EPA believes that the number of small businesses affected by this rule will not be substantial, even if all of the SNUR notice submitters were small firms.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the OMB under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and have been assigned OMB control number 2070-0012.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: May 30, 1991.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. By adding new § 721.235 to subpart E to read as follows:

§ 721.235 Halogenated-N-(2-propenyl)-N-(substituted phenyl) acetamide.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as halogenated-N-(2-propenyl)-N-(substituted phenyl) acetamide (P-83-1085) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1) and (a)(3).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (e), and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

3. By adding new § 721.285 to subpart E to read as follows:

§ 721.285 Certain acrylates.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as alkanetriol dimethacrylate, substituted (P-84-176); polyalkylene glycol monomethacrylate, substituted (P-84-180); polyalkyl alkanediol monoacrylate, substituted (P-84-181); alkanetriol polyalkylene glycol ester acrylate, substituted (P-84-182); alkylene glycol monomethacrylate, substituted (P-84-183); polyalkyl alkanediol monomethacrylate, substituted (P-84-184); 2-oxepanone, homopolymer, ester with 3-hydroxy-2,2-dimethylpropanoic acid (2:1), di-2-propenoate (P-84-341); 2-oxepanone, homopolymer, 2-propenoate, (tetrahydro-2-furanyl) methyl ester, (P-84-342); 2-oxepanone, homopolymer, 2-propenoate, ester with 2,2'-[oxybis(methylene)]bis(2-hydroxymethyl)-1,3-

propanediol (P-84-343); 2-propenoic acid, [2-[1,1-dimethyl-2-[(1-oxo-2-propenyl)oxyethyl]-5-ethyl-1,3-dioxan-5-yl] methyl ester (P-84-344); and 2-propanol, 1-amino-, reaction products with melamine, polymer with 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, 2-hydroxyethyl, acrylate-blocked (P-85-703), are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63 (a)(1), (a)(3), (a)(4), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), (b)(concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b)(2), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), and (g)(2)(v). The statement "when spray applied" shall appear with the statements required under (g)(2)(ii) and (g)(2)(iv).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 720.80(o).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule. (Approved by the Office of Management and Budget under OMB control number 2070-0012)

4. By adding new § 721.305 to subpart E to read as follows:

§ 721.305 Aminophenol.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as aminophenol (P-83-909) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1) and (a)(3).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(b)(1)(i)(D) and (g)(2)(v). The provision of § 721.72(g) requiring placement of specific information in an

MSDS does not apply when an MSDS is not required under § 721.72(c).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a), (b), (c), (d), (f), and (g).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

5. By adding new § 721.315 to subpart E to read as follows:

§ 721.315 Ethylated aminophenol.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as ethylated aminophenol (P-83-908) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1) and (a)(3).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(b)(1)(i)(D) and (g)(2)(v). The provision of § 721.72(g) requiring placement of specific information in an MSDS does not apply when an MSDS is not required under § 721.72(c).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a), (b), (c), (d), (f), and (g).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

6. By adding new § 721.425 to subpart E to read as follows:

§ 721.425 Anilino ether.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as anilino ether (P-83-910) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1) and (a)(3).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(b)(1)(i)(D) and (g)(2)(v). The provision of § 721.72(g) requiring placement of specific information in an MSDS does not apply when an MSDS is not required under § 721.72(c).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a), (b), (c), (d), (f), and (g).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

7. By adding new § 721.460 to subpart E to read as follows:

§ 721.460 Benzenamine, 3-chloro-2,6-dinitro-N,N-dipropyl-4-(trifluoromethyl)-.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as benzenamine, 3-chloro-2,6-dinitro-N,N-dipropyl-4-(trifluoromethyl)- (P-86-83) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63 (a)(1), (a)(3), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vi), (g)(1)(vii), (g)(1)(ix), (g)(2)(i), and (g)(2)(v). The provision of § 721.72(d) requiring that employees be provided with information on the location and availability of MSDSs does not apply when an MSDS is not required under § 721.72(c). The provision of § 721.72(g) requiring placement of specific information in an MSDS or label does not apply when an MSDS and label are not required under § 721.72(c).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 720.80(h).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(3), (b)(1), (b)(3), (c)(1), and (c)(3).

(b) *Specific requirements.* The provisions of subpart A of this part

apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (f), (i), and (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

8. By adding new § 721.660 to subpart E to read as follows:

§ 721.660 Substituted bromothiophene.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted bromothiophene (P-83-769) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(5)(iv), (a)(5)(v), and (a)(6)(i).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(b)(1)(i)(D) and (g)(2)(iv). The provision of § 721.72(g) requiring placement of specific information in an MSDS does not apply when an MSDS is not required under § 721.72(c).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a), (b), (c), (d), (f), and (g).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

9. By adding new § 721.850 to subpart E to read as follows:

§ 721.850 [(Dinitrophenyl)azo]-[2,4-diamino-5-methoxybenzene] derivatives.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substances identified generically as [(dinitrophenyl)azo]-[2,4-diamino-5-methoxybenzene] derivatives (P-83-817 and P-83-818) are subject to reporting under this section for the significant new

uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(v)(1), (v)(2), (w)(1), (w)(2), (x)(1), and (x)(2).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a), (b), (c), and (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

10. By adding new § 721.1025 to subpart E to read as follows:

§ 721.1025 Ethanol, 2-amino-, compound with N-hydroxy-N-nitrosobenzeneamine (1:1).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as ethanol, 2-amino-, compound with N-hydroxy-N-nitrosobenzeneamine (1:1) (P-86-542), is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(3), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b)(2), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(iv), (g)(1)(vii), (g)(2)(i), and (g)(2)(v).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 720.80(k) (monomer stabilizer).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1), (b)(2), (c)(1), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

11. By adding new § 721.1029 to subpart E to read as follows:

§ 721.1029 Brominated arylalkyl ether.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as brominated arylalkyl ether (P-83-906) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1) and (a)(3).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(b)(1)(i)(D) and (g)(2)(v). The provision of § 721.72(g) requiring placement of specific information in an MSDS does not apply when an MSDS is not required under § 721.72(c).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a), (b), (c), (d), (f), and (g).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

12. By adding new § 721.1375 to subpart E to read as follows:

§ 721.1375 Carbamodithioic acid, methyl-, compound with methanamine (1:1).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as carbamodithioic acid, methyl-, compound with methanamine (1:1) (P-84-1042), is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(3), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.*

Requirements as specified in § 721.72(a), (b)(2), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vii), (g)(1)(vi), and (g)(2)(i). The provision of § 721.72(d) requiring that employees be provided

with information on the location and availability of MSDSs does not apply when an MSDS is not required under § 721.72(c). The provision of § 721.72(g) requiring placement of specific information in an MSDS does not apply when an MSDS is not required under § 721.72(c).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 720.80(k).

(iv) *Disposal.* Requirements as specified in § 721.85(a)(2), (b)(2), and (c)(2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (g), (i), and (j).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

13. By adding new § 721.1425 to subpart E to read as follows:

§ 721.1425 Methylphenol, bis(substituted)alkyl.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as methylphenol, bis(substituted)alkyl (P-84-417) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(3), (b)(concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b)(2), (c), (d), (e)(concentration set at 1.0 percent), (f), (g)(1)(ii), (g)(1)(iv), (g)(2)(i), and (g)(2)(v).

(iii) *Industrial, commercial, and consumer activities.* Requirements as

specified in § 720.80(k) (antioxidant/stabilizer for polymers) and (q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance, as specified in § 721.125(a) through (i).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

14. By adding new § 721.1600 to subpart E to read as follows:

§ 721.1600 Phosphine, dialkylphenyl.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as phosphine dialkylphenyl (P-83-1023) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(6)(i), (b) (concentration set at 1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b)(2), (d), (e) (concentration set at 1 percent), (f), (g)(1)(iii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), and (g)(2)(v). The provision of § 721.72(d) requiring that employees be provided with information on the location and availability of MSDSs does not apply when an MSDS is not required under § 721.72(c). The provision of § 721.72(g) requiring placement of specific information in an MSDS does not apply when an MSDS is not required under § 721.72(c).

(iii) *Disposal.* Requirements as specified in § 721.85 (a)(2); (b)(2); and (c)(2).

(iv) *Release to Water.* Requirements as specified in § 721.90(a)(3), (b)(3), and (c)(3).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (g), (i), (j), and (k).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

15. By adding new § 721.2150 to subpart E to read as follows:

§ 721.2150 N,N,N',N'-Tetrakis(oxiranymethyl)-1,3-cyclohexane dimethanamine.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as N,N,N',N'-tetrakis(oxiranymethyl)-1,3-cyclohexanedimethanamine (P-84-7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(5)(iv), (a)(5)(v), (a)(5)(vi), (a)(6)(ii), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b)(2), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vii), (g)(1)(viii), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), and (g)(2)(v).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125(a) through (h).

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

[FR Doc. 91-13234 Filed 6-4-91; 8:45 am]

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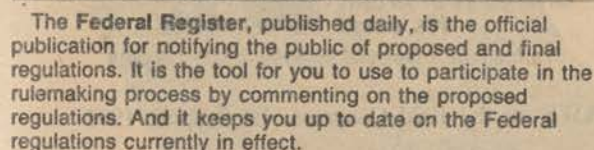
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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List June 4, 1991

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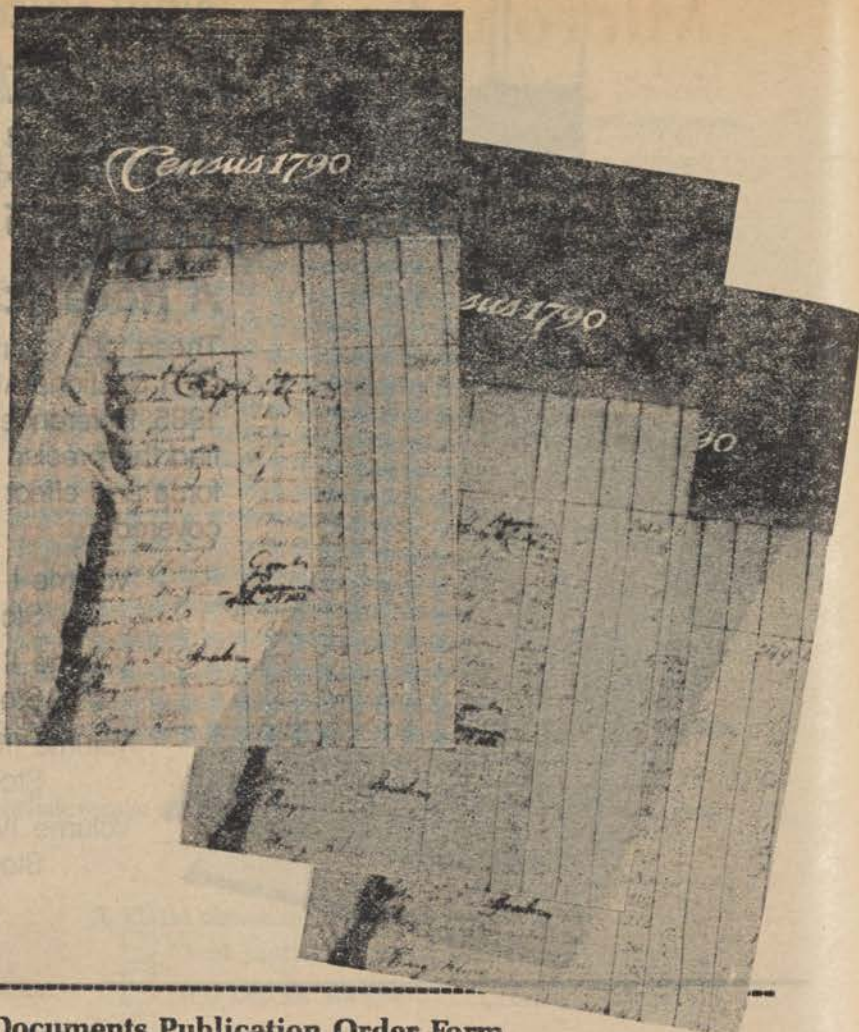
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